



Title: **Review of Allocations Policy and Local Tenancy Strategy**

Wards Affected: **All Wards**

To: **Overview and Scrutiny Board** On: **21 November 2012**

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## **1. Key points and Summary**

- 1.1 Social housing in Torbay currently offers a strong and valuable safety net for vulnerable groups and should continue to do so. Social housing should support those who need it most for as long as they need it. In addition, social housing also has broader social and economic roles in terms of area renewal and economic renewal, supporting strong communities, and tackling child poverty, worklessness and unemployment.
- 1.2 A fresh and more flexible approach to social housing could help the system to work better and allow wider groups of people to access the sector.
- 1.3 The review of our existing scheme has enabled and proposes local flexibilities for eligibility and priority to be applied. However due to the very small number of properties available outside of meeting the priority needs requirement it is unlikely to be viable to create an additional process at this time.
- 1.4 Housing policy should focus on the broader social and economic goals of housing across different tenures rather than concentrating exclusively on social housing.
- 1.5 Identifying housing for key priority needs groups in Torbay specifically families and those requiring adapted properties is reflected in the Local Tenancy Strategy.
- 1.6 The cost of returning to a bespoke Torbay allocations scheme would need to be funded – all initial set up costs for the existing scheme have been paid and the on going costs are covered by Landlord fees per every advert/ house let. The costs of administering the application and the register within the housing options team are part of the overall staffing budget. Occasional one off costs can occur e.g when legal advice is required.
- 1.7 The Council at its meeting on 6 December will consider the following recommendations:
  1. That the Council continue with the Devon Home Choice partnership agreement and allocations policy and review the future policy approach when next review of Devon Home Choice completed.

2. That the Local Tenancy Strategy be published in January 2013 and local registered housing providers be encouraged to have due regard to Torbay's Local Tenancy Strategy.

1.8 The Overview and Scrutiny Board is asked to consider the report and provide views and/or make any recommendations to the Council.

## **2. Introduction**

2.1 The Localism Act 2011 has given local authorities new powers to shape the way in which they approach allocations, manage their waiting lists and make use of tenancies for social housing. Although, local authorities will still be required to operate and publish an allocations scheme, this no longer has to be open to all applicants. The Act still requires local authorities to grant priority to households meeting the existing reasonable preference criteria; but in addition to this, local authorities will be given greater flexibilities and discretion to shape their approach to allocations.

2.2 The Act is a key tool in implementing the government's proposals for social housing reform. Government states that the aim of the Act is to support communities to identify and drive local priorities and shape what local services look like and how they are delivered. The Act aspires to devolve power and funding to the lowest possible level.

2.3 The Localism Act will:

- give landlords new powers to grant tenancies for a fixed term to new tenants, where they choose to do so
- allow local authorities greater control over who they admit to waiting lists for social housing in their area ( see appendix 1)
- enable local authorities to more easily discharge their duties to homeless people into the private rented sector
- reform social housing regulation with greater emphasis on local accountability and tenant scrutiny
- support greater tenant mobility across the social housing sector
- require local authorities to develop a tenancy strategy in partnership with local registered providers. ( see appendix 2 )

### **Relationship between the tenancy strategy, allocations policies and individual tenancy policies**

2.4 The Localism Act creates a statutory requirement for all local authorities to develop a tenancy strategy which must include the high level objectives that registered providers in that area are to 'have regard to' when considering their own tenancy policies. Local authorities should develop their tenancy strategy in tandem with their allocation scheme.

2.5 This joined up approach is necessary to ensure an integrated and effective approach to housing options within a locality.

### **Evidence based approaches**

2.6 In order to be effective and transparent, the tenancy strategy must be based on clear evidence drawn from local intelligence to inform long-term decision that will have local impacts. The tenancy strategy should be developed in conversation with local registered providers, partners working in health and the local economy and communities themselves. It should reflect the housing, and wider social and economic needs of an area. Local authorities should consider how their tenancy strategy:

- Meets housing need and demand locally
- Contributes to wider community objectives, such as health, education, employment and enterprise
- Reflects social, economic and household requirements which may arise out of the welfare reform.

In addition, the housing regulator, the HCA, requires registered individual providers to publish a tenancy policy. This document is intended to set out how that provider will use the new range of options that are available to them, with regard to tenancies of different types and length, when letting properties to new tenants. An individual registered provider's tenancy policy should also be developed in consideration of the local authority's allocation scheme and its tenancy strategy to ensure a joined up approach locally.

### **Equality and diversity**

2.7 Local authorities play a key role in supporting diversity locally. They promote understanding and good relations between people who have different backgrounds and experiences, and this enhances the quality of life in local areas. The pursuit of equality depends on more than the criteria within the locally agreed scheme: it also requires the active involvement of groups that might be affected by the scheme or its formulation, including groups that might be under-represented or not fully visible to authorities. In assessing eligibility and making allocations, local authorities and their staff should have procedures which ensure compliance with the Equality Act 2010 and which avoid unfair discrimination, while complying with new allocations guidance and with relevant Housing Acts.

### **Providing advice and information**

2.8 The publication of accessible and free information is vital in enabling people to take responsibility for their own housing solutions. This should additionally include information about housing options that exist within a local area. Where local authorities have stock or have nomination rights to partners' stock, it is important how that stock will be used and who is eligible for help is clear to everyone. This will be particularly important in the light of the local variations and additions that government is proposing to allow local authorities to introduce. The variety of local differences will mean that clarity of the local conditions and eligibility will be even more important to help people navigate local circumstances and make effective and empowered choices for themselves.

## **Managing transfers**

- 2.9 The allocation guidance gives local authorities freedom to set their own transfer policies (Torbay does not hold any stock of its own) including giving existing social tenants who are under-occupying their accommodation appropriate priority for a transfer. However, housing benefit reforms and proposed welfare reforms could mean that households deemed to be under-occupying their homes or experiencing a reduction in income may generate requests for internal transfers. Not all areas will have an appropriate supply of smaller properties from their stock profile to meet these requests. Partnership working with other registered providers and across local authority boundaries may be necessary to address this issue.

## **Using flexible tenancies**

- 2.10 The Localism Act 2012 gives local authorities the option to make greater use of flexible tenancies to support households in low paid work and to incentivise others to take up employment and training. Flexible tenancies provide new opportunities to link housing with wider social and economic goals locally. However, local authorities will need to be vigilant to ensure greater use of flexible tenancies does not create instability in communities or other negative social effects; for example: unstable housing for children or the possibility that children might have to change schools more often.

## **Choice-based lettings (Devon Home Choice)**

- 2.11 The allocation guidance replaces earlier guidance on choice-based letting (CBL) schemes, but does not provide detailed guidance on how local authorities should integrate CBL schemes with new approaches to allocations. Local authorities will need to consider how to do this to ensure effective choice and access to a range of housing options locally.

Recent customer feedback tells us:

65% of applications are made via the website

66% felt that Devon Home Choice was a fair way of letting homes

84% felt that the way applications are assessed and placed in different bands is fair

## New approaches to allocations

- 2.12 The Localism Act and allocation guidance gives local authorities much greater freedom to determine 'qualifying persons' for their allocation scheme. A range of different considerations could be taken into account when establishing a rationale for considering new approaches to allocations. For example:

Rationale for a new approach to allocations	Priority factors
<ul style="list-style-type: none"> <li>Addressing an evidenced need to provide affordable housing for employees</li> <li>Creating mixed income communities</li> </ul>	<ul style="list-style-type: none"> <li>In work or seeking work</li> <li>Tackling child poverty</li> </ul>
<ul style="list-style-type: none"> <li>Encouraging tenants' aspirations</li> <li>Contributing to local economic growth</li> </ul>	<ul style="list-style-type: none"> <li>In education or training</li> </ul>
<ul style="list-style-type: none"> <li>Encouraging involvement in the community</li> <li>Supporting the Big Society agenda</li> <li>Supporting community led enterprise</li> </ul>	<ul style="list-style-type: none"> <li>Making a positive contribution to the community in terms of social, voluntary or other entrepreneurial action</li> </ul>
<ul style="list-style-type: none"> <li>Tackling anti-social behaviour and crime</li> <li>Supporting safe and sustainable neighbourhoods</li> </ul>	<ul style="list-style-type: none"> <li>Rewarding good behaviour</li> <li>Troubled Families</li> </ul>
<ul style="list-style-type: none"> <li>Making best use of stock</li> <li>Supporting aspirations of tenants</li> <li>Helping tenants to balance income and affordability</li> </ul>	<ul style="list-style-type: none"> <li>Encouraging downsizing</li> </ul>
<ul style="list-style-type: none"> <li>Promoting choice</li> <li>Making best use of stock</li> <li>Savings for health and occupational health budgets</li> </ul>	<ul style="list-style-type: none"> <li>Moving on from supported housing or adapted properties which are no longer needed</li> <li>Reducing the use of residential care, avoiding hospital discharge delays</li> </ul>

## Discharge of homeless duties into the private rented sector

- 2.13 This is a new duty with effect from 9 November 2012. Under the new rules households accepted as homeless will be able to be housed into good quality private rented accommodation of a 12 month minimum let. With the homeless cases able to be housed in the private rented sector this will 'free up' more capacity for social tenants and other high housing need groups. This will mean that potentially other councils can discharge their duty in Torbay if deemed suitable. This may increase demand for housing support services where people meet relevant eligibility criteria including having a local connection with Torbay. The homeless cases will not be penalised but will no longer gain a 'head start' over others in housing need merely by being accepted as being owed a homeless duty by the Council. They will be able to apply for social housing equally with all other applicants but their homeless status will no longer give them an advantage over tenants and other households in urgent housing need.
- 2.14 Homelessness legislation is not changing and will still be a safety net for those vulnerable groups in priority need. The Government's regulations on the suitability of private rented accommodation offered to homeless people has yet to be confirmed.
- 2.15 Where people are housed is important – sending people to other areas can put huge pressure on receiving local authorities as well as being detrimental for families. There is evidence that some councils are increasingly placing people in distant local authorities. The Government's position is that local authorities, when considering the suitability of accommodation for homeless people, should take into account location, particularly distance from the previous home and disruption to

schooling, employment, medical care, amenities and support. This would also help to avoid putting pressure on the authorities that would receive households placed out of area.

- 2.16 This may increase demand for housing support services where people meet relevant eligibility criteria including having a local connection.

**Why have these changes taken place?**

- 2.17 The way in which we allocate social housing in England presents key challenges for government, local authorities and housing providers. Social housing is a scarce resource with constricted supply and it is not being used as effectively as it could be to meet housing needs: the table below shows the situation in Torbay over the past 6 years

Year	06/07	07/08	08/09	09/10	10/11	11/12
New Affordable housing completions	144	149	119	117	127	35
Number of lets	317	285	303	371	344	371
Social Housing Register numbers	3995	5221	6493 Review Undertaken prior to DHO	2482	3966	3425

**Register banding/ need spilt 4/4/2012**

Bedroom Need	1	2	3	4	5	6	7	
<b>Band A (Emergency)</b>	1	0	0	2	0	0	0	3
<b>Band B (High)</b>	155	98	37	27	16	4	1	338
<b>Band C (Medium)</b>	223	309	170	70	7	0	0	779
<b>Band D (Low)</b>	626	247	90	36	7	2	0	1008
<b>Band E (No Housing Need)</b>	585	465	236	19	1	0	0	1306
<b>Total of Band</b>	<b>1590</b>	<b>1119</b>	<b>533</b>	<b>154</b>	<b>31</b>	<b>6</b>	<b>1</b>	<b>3434</b>

- 2.18 A needs based approach to allocations has concentrated deprivation in some areas. There is insufficient housing support for low income households (incomes between £12,000 and £25,000, known as in-betweens) who are unable to access social housing and whose housing options are often limited to the private rented sector. Within our register the average income is below £12,000. There is a need for greater mobility in the social housing sector to support aspirations and local economies.

- 2.19 As a result of radical reforms to local housing allowance (LHA), the Localism Act and the Welfare Reform Act, the housing benefit system is entering a period of dramatic change which will include a new 'size criteria' for social housing occupancy and benefit payments delivered under 'Universal Credit'.

- 2.20 Universal Credit will be capped at £26,000 and maximum LHA in all areas has been reduced which could lead to many unaffordable homes and the potential relocation of those in areas where property costs are high to lower cost areas.

**What is the Housing Allocation Policy?**

2.21 It is the rules the Council sets to decide who gets priority for social housing in Torbay. Social Housing includes properties and any Registered Provider (Housing Association) properties that the Council have nomination rights for. By law, the council has to have an Allocations Policy which must be a public document and kept under review.

2.22 Devon Home Choice is a choice based letting scheme and a partnership between the 10 Devon Local Authorities and Registered Providers working in Devon. The scheme has been in existence since 2010 and the local administration of the scheme transferred from Sanctuary Housing to the local authority Housing Options team in June 2012. This was to ensure that requirements within the localism act could be delivered together with a more effective and comprehensive housing advice service to all those wishing to join the register as a housing option.

2.23 The policy sets out

- How to apply for housing
- Who is eligible for housing
- How applicants will be assessed and prioritised

and has recently undergone a review to take account of the new guidance/changes. All applicants are assessed in the same way, using the rules set out in this policy to ensure fairness and consistency. Whilst all applicants are assessed in the same way, some partner housing associations may have different criteria to let their homes (for example the number of people that can live in a home of particular size etc). Where this is the case any differences will be made available on the Devon Home Choice website.

### **Aims of Devon Home Choice**

2.24 The aims of Devon Home Choice are to provide:

- Choice for people seeking housing and the ability to move within Devon
- A common scheme across Devon that is transparent, easy to understand and accessible to all

2.25 Under Devon Home Choice there is a common:

- Application form
- Housing register
- Approach to assessing housing need and awarding priority
- Approach to advertising available properties

2.26 Local authority and housing association homes available to let will be advertised every week. Households with active applications on the Devon Home Choice

housing register can look at details of the homes. They can then 'bid' for homes that they are eligible for.

2.27 The successful household will be selected from those that applied for a home based on:

- Whether they meet any preferences for particular types of applicant that may have been specified in the advert
- The band in which their application has been placed, which reflects their housing need
- Their band start date within that band

2.28 Devon Home Choice enables people to move within the county. This will greatly help people who need to move to get work or to benefit from support.

2.29 429 homes were let in Torbay between 1 April 2011 and 31 March 2012. Of these:

- 327 (77%) were let to households previously living in Torbay
- 71 were let to households moving in from one of the other 9 Devon local authorities. Of these households, only 1 was reported to not have a local connection to Torbay. The vast majority of these moves into Torbay were from households who had previously lived in local authorities that border Torbay. Moves from Teignbridge, Exeter and South Hams accounted for (89%) of all moves into Torbay from other Devon local authorities.
- 14 (3%) were let to households moving in from outside Devon. None of these households was reported to not have a local connection to Torbay.

88 households moved from Torbay to one of the other nine Devon local authorities between 1 April 2011 and 31 March 2012. Of these, 16 households were reported to have no local connection to the local authority area they moved to. 60% of these moves were either to the South Hams (23 households, 32%) or Teignbridge (20 households, 28%).

### **Changes to our housing options approach and how we reduce the register numbers**

2.30 Most of the people on our Housing Register will never have any chance of being offered a social housing home but this is not made clear by the system. The new enhanced options approach and allocation policy makes it clearer realistically who the council can and cannot house.

2.31 Of around an average of 3,500 households on the Register at any one time (which includes 1,300 assessed as no need), the reality is only 370 (on average) households per year are successful and find suitable accommodation. The introduction of the no need band will better inform expectations, but there will still be significant waiting times (for example, 3 – 5 years for a three-plus bedroom house).



- 2.32 While social housing build has slowed, additional units of extra care housing for older people and, in some instances, other vulnerable groups will be developed over the next three years going some way towards meeting the care and support needs of frail older people. We are also intending to offer specific housing options service for the elderly and those requiring Specialist/accessible (adapted) homes. This will also need to link with the availability and accessibility of Disabled Facilities Grants and any other planned remodelling of Older Persons Services eg Homecare assessments etc. The majority of older people live in the private sector so that will not only reduce the need for residential care, facilitate hospital discharge and promote independence but should also reduce reliance on social housing.
- 2.33 The council could if it wishes make a local priority applicants who have a housing need and who are working and on a very low income and/or households who can, or do, contribute to making Torbay a stronger and more successful place.
- 2.34 Our Allocation Policy is the fundamental 'building block' of sustainable social housing communities. The previous policy/ approach resulted largely in housing people, who although in high housing need, may not work could undermine the Council's objective to create sustainable balanced housing communities. If the Council only house applicants who are not working the balance on the social housing estates between those who work and those on benefits is potentially tilted too far towards benefit dependent households.
- 2.35 However Torbay has recognised high levels of deprivation and child poverty and we need to provide housing that is affordable to encourage social mobility and break the poverty cycles.
- 2.36 The proposed revised Devon Home Choice Policy states Local authorities and landlords will agree locally whether to advertise some homes with a preference to working households or those making a positive community contribution, rather than by providing additional priority in the policy to such households. This could be applied to new local lettings plans for new affordable housing provision.
- 2.37 This could encourage people who can, to work which will contribute to raising levels of aspiration and ambition. This can be achieved through offering increased priority to families and individuals who are working, on apprenticeships but are on a very low income who may never be able to afford to buy a home and for whom renting in the private sector will mean they are hardly better off financially from continuing to work.
- 2.38 The policy can also be used to encourage those who do, or could, make a positive contribution to the local community. Customers who have a need for social housing and are volunteering, working, training, fostering could be helped although the Policy overall would still need to make sure that the majority of homes are let to those in the greatest housing need. Sometimes customers may be less able to do community work because of their age or disability so we would need to take this into account when making decisions.
- 2.39 Positive Community Contribution cases could include the following. These are examples only:
- Those employed on a low income or undertaking training.

- Applicants that can demonstrate a contribution to the local community such as certain types of voluntary work, or who contribute through relevant community groups. This could be specific to the area where a local letting policy is deployed, or could be voluntary work regardless of which part of the community benefits.
- 2.39 Applicant/s that are defined as a Key Worker by the Council - this could be in the health services, social care/ social workers, transport, Community Support officer, members of the Territorial Army or volunteer Fire Officers, etc who need accommodation. Specific roles and income limits may need to be defined and reviewed on a regular basis.
- 2.40 Whilst offering choice to applicants wherever possible, allocation schemes must still ensure that reasonable preference is given to applicants who fall into one of the following groups over those who do not:
- People who are homeless (within the meaning of Part 7 of the 1996 Housing Act as amended by the Homelessness Act 2002). This includes people who are intentionally homeless and those who are not in priority need
  - People who are owed a (homeless) duty by ANY local authority under section 190(2), 193(2) or 195(2) of the 1996 Act (or under section 65(2) or 68(2) of the Housing Act 1985) or who are living in accommodation secured by ANY housing authority under section 192(3). The letter detailing the outcome of a homeless application will specify whether 1 of these sections applies
  - People occupying unsanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions
  - People who need to move on medical or welfare grounds including a disability
  - People who need to move to a particular locality in Devon, were failure to move would cause hardship to themselves or others
- 2.41 The Localism Act will allow councils to set their own local reasonable eligibility rules. The following outlines the current rules within Devon Home Choice. The Localism Act 2011 provides local authorities with the power to determine for themselves what classes of persons are, or are not, persons qualifying to be allocated social housing in their areas.
- 2.42 The Localism Act does not change the fact however that certain people from abroad with limited rights to remain in the United Kingdom are not eligible to be allocated social housing. These groups of people are set out in 'The Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006' (as amended).
- 2.43 In addition to such people from abroad people assessed by Devon local authorities as being guilty of unacceptable behaviour will continue to be denied the right to register with Devon Home Choice. This will apply where a Devon local authority is satisfied that the applicant, or a member of their household, have been guilty of unacceptable behaviour serious enough to make the applicants unsuitable to be a

tenant and who, in the circumstances at the time their application is considered, are unsuitable to be a tenant because of the unacceptable behaviour. This behaviour must normally have occurred in the previous two years

2.44 Behaviour is unacceptable if it is behaviour that would, if the applicant had been a secure tenant, allow the housing authority to obtain an outright possession order under section 84 of the Housing Act 1985 in relation to Grounds in Part 1 of Schedule 2 other than Ground 8.

2.45 Cases will be considered on an individual basis. The following criteria will be applied in determining whether an individual or household should be denied the right to register with Devon Home Choice, because of their behaviour:

- There must be reliable evidence of violent or anti-social behaviour, domestic, racist or homophobic abuse
- The behaviour need not have led to possession, prosecution or other enforcement action by a statutory agency, provided there is reasonable probability that, had the applicant been a tenant, an outright possession order would have been granted because of that unacceptable behaviour.
- In normal circumstances the behaviour concerned should have occurred within the last two years. In cases of a more serious nature, for example, those involving criminal prosecution, a longer time-scale may be appropriate.
- There must be reasonable grounds for believing that the behaviour could continue or be repeated. For example, the applicant may have issued threats or there might be a history of repeat offending.

2.46 Households with significant rent arrears that led to a local authority or housing association in the previous 2 years obtaining an outright possession order under section 84 of the Housing Act 1985 in relation to Grounds in Part 1 of Schedule 2 other than Ground 8 will normally be excluded from the Devon Home Choice register.

2.47 Applicants with rent arrears below this level to any social landlord, that were accrued in the previous two years on their current or a previous tenancy, will not normally be offered a property.

2.48 Applicants with rent arrears to any social landlord above £500 will be placed in the No housing need band (E). Both will apply unless there are exceptional circumstances or until:

- They clear their debt, or
- The landlord is satisfied that the applicant is entitled to an amount of benefit sufficient to clear the arrears, or
- The applicant has shown a clear intention to pay. That payments are made in accordance with an agreed repayment schedule during a period of at least 3 months. In exceptional circumstances that period may be reduced with the agreement of the local authority, or

- If there are exceptional circumstances relating to need
- 2.49 Applicants with rent arrears to a private landlord will be considered on a case-by-case basis by Devon local authorities. Applicants who have rent arrears to a private landlord over £500 who have been (or would be) assessed as having accrued these rent arrears intentionally will be placed in the No housing need band (E). 'Intentionally' means that the applicant deliberately did something (or failed to do something) that resulted in the rent arrears.
- 2.50 Household Income: Applicants with a household income more than five times higher than the relevant Local Housing Allowance level prevailing in Devon at the time will normally be considered to be able to meet their housing need, through either renting privately or owner occupation. Such applicants will have their applications placed in the No housing need band (E).
- 2.51 Capital, Savings and Equity: The capital, savings and equity available to an applicant's household will be assessed. If it is determined that, given:
- The applicant's capital, savings and equity
  - The size and composition of the applicant's household
  - The local housing market (for example prices to buy or rent privately) an applicant can resolve their own housing need within their local housing market they will be placed in the No housing need band (E).
- 2.52 Local authorities will not take any lump sum received by a member of the Armed Forces as compensation for an injury or disability sustained on active service into account when assessing whether they have sufficient resources to meet their own housing need
- 2.53 If we elect to end our partnership agreement in Devon Home Choice and create a Torbay bespoke allocations process and policy the indicative cost would be £20,500 approx running costs based on a 10<sup>th</sup> of current, plus we would need to purchase software approx costs of £25000 – £30,000. In addition this would make it more difficult, and complicated, with limited choice for Torbay residents to bid for homes outside of Torbay within Devon.

**Nigel Denning**  
**Head of Family Services**

## **Appendices**

Appendix 1

Devon Home Choice Policy Review July 2012

Appendix 2

Draft Local Tenancy Scheme

## Devon Home Choice Policy Review July 2012 Introduction

The Devon Home Choice Management Board undertook the second annual review of the policy and operation of the scheme. The review was undertaken in light of the Localism Act.

This briefing summarises the decisions that were agreed.

It is anticipated that the changes will be implemented and that the revised policy will come into effect in August. This will be confirmed as soon as possible.

Local authorities will contact those applicants affected by the agreed changes in advance of the revised policy taking effect.

### Banding:

- All underoccupiers will have their applications placed in Band B regardless of how many bedrooms they are freeing up. Please note that the Operational Group (4 July) will agree how this will be applied.
- A new Band B category will be introduced for 'Severe overcrowding'. This will include the current Band B categories (lacking 2 bedrooms and 2 children lacking a bedroom), as well as those households assessed as a Category 1 hazard due to overcrowding.
- The Band D reasons of 'Non Stat Homeless' and 'Rough Sleeper/NFA' will be combined and re-named 'No Permanent Home'.
- The banding reasons of Agricultural workers in tied accommodation, Moves for work and Staying access to children will be removed. Existing cases will retain their banding
- The additional banding and waiting times awarded for cumulative need will no longer be given (e.g. applications will not be given 6 months extra time or moved up a band if they have 2 or 3 needs in the same band).
- Devon Home Choice will continue to register Band E households subject to the following:
  - o The application form will be redesigned so that Band E households only need to complete a limited number of questions
  - o Online applications from Band E households will be automatically made active, without any need for housing officers to review/ activate them
  - o The renewal date for Band E households will be automatically set for 3 years in advance. A new folder will be created for Band E applications that have reached their renewal date and have not bid in the previous 6 months. It will then be possible for local authorities to batch close the applications
  - o Band E households will not be included in housing need figures

- Households who need to move to larger accommodation to become foster carers or adopt will have their applications placed in Band B under 'Supporting another priority service' subject to procedures being agreed with Social Services
- People who formerly served in the regular UK armed forces and are in the new Band D category of 'No permanent home' will have their application moved to Band C to reflect the government's forthcoming legislation.
- Priority for housing defects/ hazards will continue to be awarded to households in Band A (e.g. where there is a Prohibition order) and Band B (e.g. where there is a Cat 1 hazard). Procedures will be agreed with the Private Sector Housing Group. Existing social tenants will continue to be excluded from any priority for housing defects/ hazards
- Local authorities and landlords will agree locally whether to advertise some homes with a preference to working households or those making a positive community contribution, rather than by providing additional priority in the policy to such households.
- Local authorities will contact (or at least review) all applicants in Bands A & B every 6 months

### **Bed Need**

- Devon Home Choice will adopt the Government bedroom standard for assessing bedroom need. This will mean that:
  - o Children can share a bedroom up until 10 regardless of sex
  - o Same sex children can share a bedroom up to 20
  - o People require their own room when they are 21

### **Application form**

- The application form will be redesigned so that:
  - o There are an initial set of questions to establish whether the application will fall into one of the reasonable preference groups (Bands A - D), and to make it clear that if not, the application will be placed in Band E
  - o Band E applicants will not need to complete all of the form
  - o The paper application is as easy as possible to understand and complete

### **Accessible homes**

- Accessible homes will continue to be advertised through Devon Home Choice and will only be let using direct match in exceptional circumstances
- Local authorities will complete the missing accessibility need information for applicants in Bands B & C by 1 September, and applicants in Band D by 1 December
- An applicant's accessibility need will be included in both the initial registration and the renewal letter, with a request that applicants make contact if they feel this is wrong
- A business case for a pilot central Occupational Therapy resource will be developed for consideration by the Devon Home Choice Management Board

- Each partner local authority and landlord will identify a named person to lead on accessible homes
- The 6 accessibility categories will be left as they are
- Supporting information will be required before any applicant is assessed as being in need of wheelchair accessible or part wheelchair accessible accommodation
- All landlords will develop and maintain an up-to-date record of accessible/ adapted properties (and those that are adaptable), and report back to the Management Board on progress with this. Where an up-to-date database isn't available landlords will undertake a pre-void inspection before properties are advertised
- Additional fields will be added to the property advert (e.g. to clarify the bathing facilities, whether there is a stairlift etc)
- At least 1 photo must be added to each advert (this relates to all homes and not just accessible homes)
- At the point where a local authority sets an advert as 'Ready to advertise' they can indicate whether they would like to be consulted before an accessible/ adapted property is let. Please note that it was agreed that this is only a request to be consulted and that shortlisting remains the responsibility of the landlord
- If an advert for a wheelchair/part wheelchair accessible property (or one with major adaptations) includes a preference to applicants with a local connection (because the LA is above the 2% limit on cross border moves), but nobody with a local connection has a need for that type of property, preference will then be given to those with a need for that type of property, rather than those with a local connection but no need for that type of property

No local connection to Devon

Applicants who have no local connection to Devon will have their application placed in either:

- The Low housing need band (D) if they are assessed as having a housing need (whether this be high, medium or low need), or
- The No housing need band (E) if they are assessed as having no housing need

However exceptions to this will include where:

- They have been accepted by 1 of the Devon local authorities as statutorily homeless, and local connection has been waived for specific reasons such as the applicant is fleeing domestic violence
- They need to move to Devon to give or receive support where failure to do so would cause hardship
- There are special circumstances such as health or support needs that are only available within Devon
- An applicant has no local connection in any district within the United Kingdom, then they will be deemed to have a local connection to Devon

In such circumstances applicants will be banded in line with the above policy, regardless of the fact that they have no local connection to Devon.

To demonstrate a local connection (defined in Part VII of the Housing Act 1996) with Devon applicants will:

- Normally be resident in Devon. Local Government Association guidelines define this as having resided in the area for six of the last twelve months, or three out of the last five years, where residence has been out of choice. In line with the Housing and Regeneration Act (2008) service personnel who have been based and living in Devon will be considered to have local connection with Devon. Their local connection will be to the local authority area where they are based or where they have been assessed.
- Work in Devon. The Local Government Association guidelines define this as employment other than of a casual nature. For the purposes of this policy this will be defined as having had permanent work with a minimum of a 16 hour contract per week for the previous 6 months, and without a break in the period of employment for more than three months.
- Have family connections in Devon. The Local Government Association guidelines define this as immediate family members (parents, siblings and non-dependent children) who have themselves lived in the area for five years.

Applicants will be required to provide proof of their local connection to Devon before their banding is assessed.

A number of housing associations with homes in Devon operate across a wider regional or national area. Tenants of such associations may on occasion wish to transfer to Devon from outside the county, but will not meet the local connection criteria (e.g. they do not have a local connection to Devon). In such cases the local connection to Devon criteria shall not be applicable. In such circumstances the tenant will be placed in the band determined by their housing needs, in the same way as applicants with a local connection to Devon. They will then be able to bid for homes in the same way as other applicants.

Similarly the local connection to Devon criteria will not be applied to:

- (a) members of the Armed Forces and former Service personnel, where the application is made within five years of discharge
- (b) bereaved spouses and civil partners of members of the Armed Forces leaving Services Family Accommodation following the death of their spouse or partner
- (c) serving or former members of the Reserve Forces who need to move because of a serious injury, medical condition or disability sustained as a result of their service

If a home is subject to more specific local connection to Devon criteria however these will still apply to both tenants of partner landlords with no local connection to Devon and members of the armed forces and reserve forces. For example Section 106



planning conditions that mean the home can only be let to someone with a local connection to a specific local area.

### ***Members of the Armed and Reserve Forces***

In addition to the local connection provision for members of the armed forces and former service personnel etc (see 3.9.7. above) , Devon Home Choice will take on legislation that is proposed to be introduced in Autumn 2012 relating to members of the armed and reserve forces.

The government propose that all local authorities provide additional preference to the following categories of people who fall within one or more of the reasonable preference categories and who have urgent housing needs:

- (a) former members of the Armed Forces
- (b) serving members of the Armed Forces who need to move because of a serious injury, medical condition or disability sustained as a result of their service
- (c) bereaved spouses and civil partners of members of the Armed Forces leaving Services Family Accommodation following the death of their spouse or partner
- (d) serving or former members of the Reserve Forces who need to move because of a serious injury, medical condition or disability sustained as a result of their service

Specifically, any household within these categories who is assessed as having 'No permanent home' (within Band D – see 3.7.1 above), will have their application placed in Band C. This will ensure that such households who fall within the reasonable preference groups and have urgent housing needs are provided with additional priority.

It is felt that Devon Home Choice already provides a sufficient level of priority to other households within these categories who have urgent housing needs. For example former members of the armed or reserve forces who are accepted as homeless by one of the Devon local authorities.

Devon Home Choice will also seek to meet the housing needs of serving or former Service personnel as follows:

- Local authorities and landlords will agree locally whether to advertise some homes with a preference to certain groups (see 4.7 below). This could include former members of the armed forces.
- Local authorities will not any lump sum received by a member of the Armed Forces as compensation for an injury or disability sustained on active service into account when assessing whether they have sufficient resources to meet their own housing need (see 2.6 above).

### **Changes to Devon Home Choice**

- Changes to the policy will only be implemented once a year, except in exceptional circumstances

- Any agreed changes will have a set date to be implemented
- An agreed approach to applying policy changes will be developed and agreed (for example where the changes will lead to some applications receiving reduced/ increased priority etc)
- Any changes to the policy agreed by the Management Board will only require sign off (by email) by local authorities who did not attend.
- The policy will display a 'from' date so that applicants and partners are sure that they have the most up-to-date version.

### **Participation in Devon Home Choice**

- Local authorities will undertake regular analysis of those applicants in Bands A – C who are not bidding/ logging onto the website, to identify the reasons for this and put in place any appropriate support
- A common short survey form will be developed for applicants in Bands A – C who are not bidding, to enable the results to be collated and analysed

### **Consultation with customers**

- Consultation be carried out on how the quality of adverts affects the bidding for accessible homes (with both applicants and housing staff)

### **Quality Assurance**

- The creation of a central administration team to process and assess all applications will be considered
- A Quality Assurance (QA) process will be developed, focusing on assessment of applications, differences in the proportion of applications in different bands/ categories, shortlisting etc. The Operational Group will take the lead for the QA process
- The implementation of the Health & Wellbeing element of the policy will be reviewed

## TORBAY COUNCIL DRAFT LOCAL TENANCY STRATEGY

### 1. Background

This tenancy strategy fulfils the requirements of the Localism Act (2011) for local authorities to have a tenancy strategy, setting out the matters to which social landlords in the area must have regard when setting their own policies. The Localism Act gives local authorities new powers to ensure that social housing in their areas is meeting need and priorities as identified by the Council. In particular it is important to us that local housing is available for local people. A key aim for the Council is to ensure that more of the social housing in the district is let to those with a strong local connection.

Torbay Council is part of the Devon sub-region and supports the Devon-wide framework for tenancy strategies. The Framework enables local authorities to adopt different approaches where these support local priorities.

The Devon-wide framework was the subject of wide consultation between local authorities, Registered Providers and other interested parties. This draft strategy will also be subject to consultation with Registered Providers working in Torbay and with other interested parties during the autumn 2012. Initial consultation with partners commenced at our Homelessness forum event held end of March 2012

### 2. Context

#### 2.1 Corporate Priorities

The Localism Act (2011) requires local authorities when preparing their strategies to take into account the council's key corporate priorities including homelessness strategies. This strategy also takes into account the Council's key corporate priorities. These include:

The **Torbay Community Plan 2011+**. A Healthy, Prosperous and Happy Bay identified in the Torbay Community Plan 2011+. The Community Plan has identified improving the economy, responding to the downturn and improving quality of life for the least well off as key challenges.

#### 2.2 Torbay Local Development plan – A Landscape for Success: The Plan for Torbay to 2031

This Plan has five headline aspirations:

- **A better connected, accessible Torbay**
- **Economic recovery and success;**
- **Protect and enhance a superb environment;**
- **Make of the most of opportunities as a result of climate change;**
- **More sustainable communities and better places.**

## **2.3 Homelessness Priorities**

### **Preventing homelessness and promoting the independence of vulnerable people.**

This will be achieved through the following actions:

1. Provide and commission services to prevent homelessness.
2. Help people obtain information and access support services early to prevent homelessness.
3. Ensure that safeguarding of adults and children is an integral part of service delivery, including where they are housed in the private rented sector.
4. Expand on the joint commissioning of services and improve their cost effectiveness by involving people in shaping their services in partnership with user led organisations.
5. Assist those affected by the recession, welfare reforms and unemployment (the wider needs of homelessness).
6. Drive forward improvement to local service delivery that meets changing local need.
7. Ensure housing supply and type plays a key role in recovery and re-ablement supporting people to become, or remain, independent in their own homes..
8. Work in partnership with health and social care commissioners and providers to plan for increased provision of support, care and treatment in community settings and a managed reduction in residential care.
9. Consider the impact of changes in health and social care leading to an increase in care, support and treatment in the community and a planned reduction in the use of residential care.
10. Ensure that 5% of all new affordable homes are fully adapted for wheelchair use.

## **2.4 Aims of the strategy**

Together, these aspirations and priorities set the key overall aims for our tenancy strategy, as set out below.

- Encouraging sufficient range of housing options to support households at different stages in their lives, and with different levels of income, whilst supporting local people to access social and affordable housing where they live;

- Making best use of the available social housing stock, including reducing overcrowding, tackling under-occupation, and making best use of adapted housing for those with a disability;
- Ensuring that vulnerable households are able to access appropriate accommodation and where needed, ensure that accommodation is available for life;
- Maximising choice for applicants, within the available resources, and promoting mobility within social housing and between social housing and other housing tenures.

### **3. Affordability**

The Council has adopted the definition of affordable housing as set out in draft National Planning Policy Framework 'Social Rent, Affordable Rent and Intermediate housing provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices.'

The Council recognises that developing associations will be charging affordable rents on new developments and on a proportion of relets. The Council supports the Devon-wide Framework which suggests that the "baseline" maximum rent charged for affordable housing should be no greater than the relevant Local Housing Allowance. The Council would also like to see Registered Providers carrying out an affordability assessment when letting properties at rents which are close to the current Local Housing Allowance, to ensure that the tenancy will be sustainable over time.

### **4. Disposals**

The Council recognises that as part of good asset management, Registered Providers will want, from time to time, to dispose of stock. The Council supports the Devon-wide Framework which encourages Registered Providers who are disposing of stock to consider disposing to other Registered Providers, rather than out of sector. The Council expects Registered Providers to consult with the local authority when considering disposing of stock, so that the Council can assess the impact of the disposal on its ability to meet housing need in the district.

The Council will not support the disposal of the following types of housing without a very strong case being made:

- Larger homes, which are defined as:
  - Three bedroom houses with potential for use as 4 bedroom homes. For example they may have a dining room and living room or they may have three double bedrooms,
  - Larger homes capable of accommodating 6 people or more.
- Properties that may be suitable for 'downsizing' initiatives. See paragraph below on Downsizing and under occupation.
- Properties which have had extensive adaptations (see below for definition)
- Supported or specialist housing.

## **5. Conversions to Affordable Rent**

Torbay Council recognises that the number of conversions has already been determined in agreements between Registered Providers and the Homes and Communities Agency. However, Registered Providers do have some flexibility when considering which specific properties to convert.

Registered Providers should have regard to the following when considering which properties will be re-let at an 'Affordable Rent':

- The pattern of re-lets by location, property size and type.
- The need to ensure that under-occupiers wishing to downsize are not put off by having to pay a higher rent or being given reduced tenancy rights.
- The need to ensure a reasonable supply of family-sized accommodation at social rents.
- The need to ensure that a reasonable supply of properties can be let to those working in the area with low incomes.
- The shortage of wheelchair accessible accommodation.

The Council expects to be consulted over criteria for conversion or the overall approach being taken by the Registered Provider, rather than being consulted over each individual conversion.

The Council understands that the Homes and Communities Agency has indicated that it may be willing to allow Registered Providers to let properties suitable for down-sizers at social rents, even where they are new properties built under the National Affordable Housing Programme. The Council strongly encourages Registered Providers to consider this option where a property has been built to be attractive to those down-sizing and where the rent differential would be off-putting. The Council understands that one or more additional relets would then need to be let at affordable rents in order to deliver the overall rental income required.

Registered providers are reminded that they can offer properties let at social rent on flexible tenancies where this supports the aims of this tenancy strategy e.g. offering a larger property on a "fixed term tenancy" in order to minimise future under-occupation. Similarly they may offer an assured tenancy on a property let at affordable rents.

## **6. Type of tenancy to be granted**

The Council expects landlords to offer tenancies in line with the new tenancy standards i.e. "tenancies which are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community and the efficient use of their housing stock"

The Council acknowledges that landlords will continue to offer a range of tenancy types for different circumstances. However, the Council strongly encourages landlords to offer flexible tenancies where this will help to make best use of the stock. In particular, the Council expects landlords to offer flexible tenancies on larger properties (3 bedroom and above) to ensure that in future, if a household is

under-occupying the property, they can be supported to move on and the property offered to a family needing that larger accommodation. Similarly, the Council expects landlords to offer flexible tenancies on properties which have been significantly adapted for use by someone with a disability, so that if in future the person who needs those adaptations is no longer living there, the remaining family can be moved to alternative accommodation and the property offered to someone who needs those adaptations.

In addition, when deciding on which tenancy type to offer, landlords should consider:

- The age and frailty of the prospective tenant.
- The vulnerability of the prospective tenant and their household.

The Localism Act offers limited protection for existing tenants who are transferring to new properties let at affordable rents. The Council would like to see Registered Providers offering a tenancy which is as close as possible to the existing tenancy of a transferring tenant, where this does not conflict with the statements above. In particular, tenants who are down-sizing should be offered a tenancy (and ideally a rent level) which incentivizes the move.

The Localism Act also changes the right of succession for new tenancies, with opportunities for landlords to offer additional rights through the tenancy agreement. The Council asks landlords who are considering offering additional succession rights to be mindful of the arguments for flexible tenancies and to avoid creating rights which might hinder making best use of stock.

The Council expects landlords who offer introductory tenancies to continue to do so.

## **7. Minimum length of tenancy**

The legislation states that 5 years should normally be the minimum term for a flexible tenancy. Landlords are discouraged from offering a longer tenancy term. A shorter tenancy period can be given in exceptional circumstances; the Council would expect any landlord considering offering a tenancy period of less than 5 years to discuss this with the Council before making a final decision.

Where a landlord offers an introductory tenancy, it is anticipated that the flexible tenancy would be offered upon successful completion of the introductory tenancy, normally one year.

## **8. Mobility**

The Council is keen to promote mobility within social housing, and expects landlords to actively promote schemes to facilitate mutual exchange. Landlords will need to be aware of the provisions within the legislation for affecting mutual exchange between tenants with different tenancy types and to ensure that their policies reflect these requirements.

## **9. Circumstances in which a tenancy might not be renewed**

The Council expects that the vast majority of flexible tenancies will be renewed upon review following an appropriate sensitive assessment..

There are two different circumstances in which a flexible tenancy would not be renewed. The first is where the property is no longer suitable, in which case the landlord would be expected to facilitate an offer of alternative accommodation. The second is where the household circumstances have changed and no offer of alternative accommodation is being made.

Circumstances in which the Council expects that the tenancy is not renewed but where an alternative offer will be made are:

- Size: Tenancies should not normally be granted for properties that are significantly larger than the household requires unless set out in Local Lettings Policies. Exceptions might include examples such as where it is necessary to accommodate a full or part-time live-in carer, to enable access to dependent children where care is shared or to limit occupation because of local housing management issues. Any under-occupation should have regard to local housing market conditions; examples might include remoter rural settlements.
- Extensive Adaptations: Tenancies should not be renewed if the properties include the provision of extensive adaptations that are no longer required by anyone living in the household

Circumstances in which the Council expects the tenancy not to be renewed and no offer of alternative accommodation to be made are:

- Income: Tenancies should not be granted if the income of the household is above the income limit as set out in Devon Home Choice policy, or a local limit set by the Local Housing Authority. The Registered Provider may choose to encourage the household to remain in the property but on different terms eg paying full market rent, part or full owner
- Possession Proceedings: If breach of tenancy conditions is to be used as a ground for non-renewal of the tenancy it is expected that Registered Providers will have already started possession proceedings. This will help demonstrate that the Registered Providers believe that the decision not to renew is proportionate and in pursuit of a legitimate claim. We expect Registered Providers to have looked at all the options i.e. exhausted other remedies before withholding the renewal of a tenancy on these grounds.

The Council asks Registered Providers to notify the Housing Options Service where a tenancy is being brought to an end and no alternative accommodation is being offered. A protocol for the notification process is in place.

## **10. Tenancy management, sustainment and tackling tenancy fraud**

The Council expects all Registered Providers to work proactively to manage and sustain tenancies. This should include regular contact with the tenant, regardless of tenancy type. For those on flexible tenancies this contact should be at least annually and should include a reminder of the tenancy end date and the grounds for not renewing the tenancy. The Council also expects Registered Providers to adhere to other protocols as agreed, for example the pre-eviction protocol.



The Council expects landlords to take reasonable precautions to tackle tenancy fraud, incorporating some form of check into tenancy sign-up and subsequent regular contact.

**11. Equality impact assessment**

Approach to be agreed. This could involve Torbay's user led groups.

**12. Reviewing this policy**

It is intended to review this strategy as part of the future reviews of our Allocation Policy and the Choice Based Lettings approach, in the light of information about the impact it is having and any specific areas in which difficulties have arisen. A more fundamental review will be carried out by April 2020 at the latest. This period has been suggested as it is unlikely that many flexible tenancies will have been brought to an end by then and advice and assistance offered.