



Meeting: Council

Date: 6 December 2012

Wards Affected: All

Report Title: Review of Allocations Policy and Local Tenancy Strategy

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Purpose

- 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

ongoing 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.

Proposed Decision

2.1 That the Council continue with the Devon Home Choice partnership agreement and allocations policy and review the future policy approach when the next review of Devon Home Choice is completed.

2.2 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.

Action Needed

3.1 Statutory Guidance on the Allocation of Accommodation

This new guidance issued (on 18th June 2012) to local housing authorities ('housing authorities') in England under s.169 of the Housing Act 1996 ('the 1996 Act'). Housing authorities are required to have regard to it in exercising their functions under Part 6 of the 1996 Act ('Part 6'). In so far as this guidance comments on the law, it can only reflect the Department's understanding at the time of issue.

3.2 This guidance replaces all previous guidance on social housing allocations.

3.3 The 2012 review of Devon Home Choice has taken account of this guidance.

3.4 Further detailed information is available at

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

4. Summary

4.1 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.

4.2 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.

4.3 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

4.4 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.

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

Evidence based approaches

4.6 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

4.7 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

4.8 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

4.9 The allocation guidance gives local authorities freedom to set their own transfer policies (Torbay council 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

4.10 The Localism Act 2011 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)

4.11 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

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

Discharge of homeless duties into the private rented sector

4.13 This is a new power 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.

- 4.14 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.
- 4.15 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 council is 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.
- 4.16 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?
- 4.17 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 DH	2482	3966	3425

Register banding/ need spilt 4/4/2012

Bedroom Need	1	2	3	4	5	6	7	
Band A (Emergency)	1	0	0	2	0	0	0	3
Band B (High)	155	98	37	27	16	4	1	338
Band C (Medium)	223	309	170	70	7	0	0	779
Band D (Low)	626	247	90	36	7	2	0	1008

Band E (No Housing Need)	585	465	236	19	1	0	0	1306
Total of Band	1590	1119	533	154	31	6	1	3434

4.18 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.

4.19 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'.

4.20 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?

4.21 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 has nomination rights for. By law, the council has to have an Allocations Policy which must be a public document and kept under review.

4.22 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.

4.23 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

4.24 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

4.25 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

4.26 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.

4.27 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

4.28 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.

4.29 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

4.30 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.

4.31 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).

4.32 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 remodeling of Older Persons Services e.g. 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.

- 4.33 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.
- 4.34 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.
- 4.35 However Torbay has recognized 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.
- 4.36 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.
- 4.37 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.
- 4.38 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.

4.39 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.

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, people who formerly served in the regular UK armed forces who need accommodation. Specific roles and income limits may need to be defined and reviewed on a regular basis.

4.40 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

4.41 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.

- 4.42 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).
- 4.43 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
- 4.44 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.
- 4.45 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.

4.46 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.

4.47 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.

4.48 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. Those 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

4.49 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.

4.50 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).

4.51 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).

4.52 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.

4.53 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 10th 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.

Supporting Information

5 Position

5.1 See point 3 statutory requirements

6 Possibilities and Options

6.1 See 4.53

7 Preferred Solution/Option

7.1 As per recommendations

8 Consultation

8.1 Internal and external stakeholder consultation has been undertaken both locally and as part of the Devon Home Choice Review.

9 Risks

9.1 See Assessment.

10 Appendices

Appendix 1 – Devon Home Choice Policy Review July 2012

Appendix 2 – Torbay Council Draft Local Tenancy Strategy