

DEVON HOME CHOICE: ISSUES RELATING TO BAND E & LOCAL CONNECTION

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Reason for Report: At the last meeting of the Decent & Affordable Homes PDG, Members asked for a debate regarding Band E on the Devon Home Choice (DHC) scheme and whether or not this housing authority should maintain a list of cases where there is no housing need. They also sought a discussion relating to other flexibilities introduced by the Localism Act 2011 in relation to the allocation of social housing; in particular, the introduction of a residency test.

RECOMMENDATION(S): In consideration of the issues raised, it is recommended that Officers review the number of housing applications in Band E for the next six months and that a working group including Members of the PDG and Officers is convened to discuss these statistics and report back to the PDG with their findings and any recommendations.

Relationship to Corporate Plan: The Corporate Plan states that the Council will focus on ensuring that the housing needs of our residents are met through the provision of affordable homes and good quality housing in the public and private sectors.

Financial Implications: The Council is a strategic housing authority and this is a general fund function. There is a budget set aside to pay for the staffing costs involved in the administration of the DHC scheme. At present, Registered Providers make a payment in respect of each advert placed and this has been the main income for the scheme. If the DHC scheme fragments, there may be a need to set up alternative arrangements to allocate homes in Mid Devon, which could prove more costly.

Legal Implications: The allocation of local authority housing is governed by Part VI of the Housing Act 2006, as amended by the Homelessness Act 2002 and the Localism Act 2011.

Risk Assessment: There is a possibility that the DHC scheme could start to fragment if local authorities within the partnership start to introduce local changes to their allocations scheme and the implications of this are explored within the body of the report.

1.0 Introduction

1.1 The Council started working with the other Devon authorities, including Plymouth and Torbay, to allocate social housing using the Devon Home Choice (DHC) scheme from January 2009. It was set up with the aim of ensuring that there was a consistent approach to the allocation of homes across the County.

- 1.2 The Localism Act 2011 introduced some changes to the legal framework relating to allocations. It gave local authorities greater discretion in relation to allocation schemes and eligibility for social housing. These changes were introduced with the intention of enabling local authorities to give priority to those in greatest housing need, recognising local influences.
- 1.3 Strategic housing authorities no longer need to keep “open” waiting lists and are allowed to decide which groups of people should qualify for housing.
- 1.4 The Secretary of State retains the power to set some minimum rules and can direct how the powers should be used.
- 1.5 DHC works by advertising available properties locally and also on the internet. Applicants need to look at these advertisements on a regular basis to ensure that they do not miss out. The list of available properties will state which type of household can bid for each one usually based on the number of bedrooms.
- 1.6 Applicants can apply or “bid” for any properties which they like. The person with the highest priority is usually offered the property first.
- 1.7 In DHC, applicants are given priority based on circumstances. There are five bands and those named A to D have the highest priority in ascending order. Those people in Band E are deemed to have no housing need.
- 1.8 Band E would normally include applicants:
 - who live in a property which is adequate to meet their housing need in terms of property type, size and facilities
 - who do not meet the housing need criteria within any of the other bands
 - who have a financial interest in or who own a property and it is “reasonable” for them to live at that property
- 1.9 The Council has its own local allocations policy which enables us to label properties. In this way, we can make best use of stock because we can ensure that only those needing adaptations can bid for adapted homes, and we can also ensure that rural homes in the villages are available for those with a local connection.
- 2.0 **Summary of the Statutory Guidance on Social Housing Allocations for Local Authorities in England**
- 2.1 The Department for Communities and Local Government (DCLG) issued new guidance in December 2013. In accordance with this, local authorities have been informed that they should ensure that they prioritise applicants who can demonstrate a close association with their local area. This is with the intention of providing assistance to those local people who may be on low incomes or otherwise disadvantaged and who would be unable to find a home on the open market.
- 2.2 All housing authorities are encouraged to adopt a residency requirement as part of the qualification criteria, requiring the applicant (or member of the

applicant's household) to have lived within the authority's district for a specified period of time in order to qualify for an allocation of social housing.

- 2.3 In areas such as Devon, where there is a common allocations policy used by a number of housing authorities, a broader residency test can be adopted so that an applicant can be live in any of the partners' districts. The guidance suggests that such an approach might be particularly appropriate where an established housing market area spans a number of local authority districts, and could help promote labour mobility within a wider geographical area.
- 2.4 Housing authorities can introduce some other qualification criteria because applicants not currently living in their areas may still be able to demonstrate a strong association to the local area. The DCLG has suggested that family association or local employment could be used to enable such people to obtain social housing in their area of preference.
- 2.5 When adopting qualification criteria, housing authorities must have regard to their duties under the Equality Act 2010 and other relevant legislation.
- 2.6 Housing authorities are expected to make exceptions from their residency requirement to cater for special circumstances. Several examples are given; these include providing protection to people who need to move away from another area, to escape violence or harm. However, it could also include giving homeless families and care leavers who have been housed outside of the District, and those who need support to rehabilitate and integrate back into the community an opportunity to return.
- 2.7 The guidance also states that there may be sound policy reasons not to apply a residency test to existing social tenants seeking to move between local authorities. Housing authorities are expected to assist in tackling under-occupation.
- 2.8 In addition, the Guidance states that the Government is planning to introduce a Right to Move for social tenants seeking to move to take up a job or to be closer to their work, whether within the local authority district or across local authority boundaries (and they will be consulting on this in the near future).
- 2.9 The Government has specified some exceptions to make it easier for members of the armed forces and their families to access social housing if housing authorities decide to use a local connection requirement to determine whether or not a housing applicant qualifies for a home in their area.
- 2.10 Housing authorities which adopt a residency test, must also consider the wider needs of the Armed Forces community, and be sympathetic to changing family circumstances, recognising, for example, that the spouses and partners of Service personnel can also be disadvantaged by the need to move from base to base.

3.0 **DHC Policy**

- 3.1 As a result of the changes implemented by the Localism Act 2011, the DHC scheme was amended to define who would qualify for social housing allocated in Devon.
- 3.2 Households assessed by one of the Devon local authorities as being guilty of unacceptable behaviour within the previous two years cannot be accepted onto the DHC scheme. Examples of such behaviour include households who have been evicted for a breach of their tenancy terms and conditions, so someone who had lost possession of their home on the grounds of rent arrears would not qualify; neither would a household which had a significant history of anti-social behaviour.
- 3.3 Households with a high income, or capital, savings or equity which would enable them to be considered to be able to meet their own housing need, through either renting privately or owner occupation are deemed to have no housing need, as stated previously.
- 3.4 Housing applicants who have no local connection to Devon are currently awarded low priority; if they have a low housing need, they are placed into Band D and if they have no housing need, they are placed into Band E.
- 3.5 There are some exceptions. For example, if they are statutorily homeless and local connection has been waived by one of the housing authorities in Devon for a specific reason. This might include because the applicant is fleeing domestic violence. An exception might also be made if they need to move to Devon to give or receive support and hardship would result if they were unable to do so; and in a case where there are health and support needs which can only be resolved within Devon.
- 3.6 To demonstrate a local connection to Devon, housing applicants will normally be resident in Devon, work in Devon or have family connections in Devon. Housing applicants are required to provide proof of their local connection to Devon before their banding is assessed.
- 3.7 In accordance with the guidance issued by the Department of Communities and Local Government in December 2013, the local connection criteria will not be applied to members of the armed forces and their family members.
- 3.8 The DHC Management Board has agreed that local authorities have the flexibility whether or not to continue registering applicants in Band E. In Teignbridge and Torbay applicants with no housing need are no longer eligible for social housing.
- 3.9 In addition, Teignbridge now gives priority to those applicants assessed to be making a community contribution and Torbay has introduced a five year residency test to be applied as part of the qualification criteria, requiring the applicant (or a member of their household) to have lived within Torbay for five years, with some exceptions.

4.0 The Current Position: Housing Applicants in Mid Devon

- 4.1 As at the end of the financial year 2013/ 2014, there were 2033 housing applicants in Mid Devon. 832 of these cases were registered in Bands A to D, 1,201 or 59% were registered in the E Band.

Band A		Band B		Band C		Band D		Band E	
1	0%	157	8%	276	14%	398	19%	1201	59%

The following table shows the bedroom need of applicants in housing need (Bands A to D)

1 Bed		2 Bed		3 Bed		4 Bed +		Total
425	51%	271	33%	82	10%	54	6%	832

- 4.2 Last year, a total of 334 units were let by RPs (including the Council, which let 141 properties) in the District. Of these, 64 were sheltered units. 19 of the available properties were let to people in Band E and of, these, 6 were sheltered units. The Council let 6 of our properties to people in Band E and the remaining 13 were let by other RPs.

5.0 Band E

- 5.1 Devon-wide, the numbers in Band E have remained fairly consistent over the period from October 2011. The current total of 15,961 is 6% less than the high point of 17,030 in October 2011 although there have been fluctuations in individual local authority figures.

- 5.2 In October 2011, there were a total of 1,102 cases in Band E in Mid Devon. This reduced to 908 in July 2012 and the numbers been rising since to the total of 1,201.

6.0 Issues for Consideration

- 6.1 Some registered providers of social housing (RPs) have expressed concern about recent changes to the DHC scheme. Two of the larger ones, which together have 607 units in Mid Devon, have raised concerns, in writing.
- 6.2 One has stated that they are unhappy with what they say are the unilateral changes that have been made within the DHC scheme by Teignbridge and Torbay Councils. They have said that they are concerned about the implications of any future changes for all the partners in the scheme, and also for the people in housing need that the scheme was established to assist.
- 6.3 The other RP has raised a number of questions which include a query about whether or not they would still be charged for adverts on vacancies where changes to the DHC assessment criteria apply. They have stated their commitment to DHC based on a belief that a partnership approach is best for RPs, housing authorities and the housing applicants. They have also stated that they accept that housing authorities need flexibility to set an Allocations Policy which meets local needs.

- 6.4 They have written to say that they believe that it is becoming increasingly difficult to maintain the DHC partnership and are now considering a different approach. This would involve registering all housing applicants regardless of band and connection and then applying the appropriate allocation policy. If a nomination was required, they suggest that individual local authorities could allocate priority to their own housing applicants according to their own allocations policy. If a nomination was not required, then each RP could use its own policy. They have stated that they may have to seriously consider whether or not they to continue to work within the DHC partnership.
- 6.5 RPs working in Devon are due to meet during the week commencing 28 April 2014 to discuss a new DHC partnership agreement with a view to putting forward proposals relating to revised partnership arrangements. Feedback from that meeting is to be discussed by the Devon Home Choice Management Board at the next meeting on 16 May 2014. The Housing Services Manager will be able to provide a verbal update about this at the meeting of the PDG.
- 6.6 The DHC policy is reviewed annually and a discussion about the introduction of a residency test is planned as part of the next review. Therefore, it might be best for the Council to wait for the outcome of this before making any changes which are only applicable to people applying for housing within Mid Devon.
- 6.7 The experience in Plymouth is that people from Torbay who have no housing need are already applying for rehousing in the neighbouring authority. Any changes made which relate to the housing register in Mid Devon could have an impact upon other authorities such as North Devon, Exeter and East Devon. It is likely that they would experience an increase in applications from people who live in this District, who do not have any housing need.
- 6.8 The Council has a dual role and is the strategic housing authority and also an RP. Our existing Allocations team manages the housing register and is also involved in the allocation and letting of our own stock.
- 6.9 If the DHC partnership was to fragment, it would have a significant impact. Whilst it is likely that we could use the Home Connections system which has been procured by DHC for administration of the housing register, this would probably have implications in terms of the additional resources needed to fulfil the strategic rehousing function. Furthermore, there is a possibility that the RPs would no longer be willing to pay for advertising properties which were to be let to people nominated by the Council.
- 6.10 At present, all social housing properties which are vacant in the District are let through the DHC scheme. If other RPs decided to opt out and allocate their own homes in accordance with historic nomination agreements, then our ability to meet the needs of our housing applicants could be compromised.
- 6.11 One RP working in Devon is already advertising properties in the regional press and another has stated an intention to advertise in the regional and national press, at a recent meeting of the DHC Management Board. In Plymouth, another RP is piloting a different approach. They are advertising

hard to let properties on the “Gumtree” website, and not through the DHC scheme. This was agreed with the City Council. Feedback on this initiative will be discussed at a future meeting of the DHC Management Board.

- 6.12 Many people in Band E are working but on a low income. They live in private rented accommodation but are experiencing financial difficulties. The new Housing Options Manager will investigate this and the findings will be reported at the next meeting of the PDG.
- 6.13 As stated, RPs, including the Council in its role as a landlord, do allocate homes to people in Band E. In some cases, this will be where a s106 agreement applies and the property must be let to someone with a local connection. If there was no Band E, it is likely that RPs trying to let homes in accordance with a s106 arrangement would have to advertise elsewhere and this would have associated costs.
- 6.14 Cases in Band E should be regularly reviewed. If the new Home Connections system, which has been recently procured by DHC to manage applications for housing and to allocate homes, can automate this process and delete those applications in the band where the applicant is not bidding or managing their application in other ways, then the resources needed to administer the band will be minimal.

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Circulation of the Report: Councillor Ray Stanley

List of Background Papers: Providing social housing for local people: Statutory guidance on social housing allocations for local authorities in England – December 2013, Department for Communities and Local Government



Department for
Communities and
Local Government

Providing social housing for local people

Statutory guidance on social housing allocations for local
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Introduction

1. This is guidance by the Secretary of State for Communities and Local Government under section 169 of the Housing Act 1996 (the 1996 Act). Local housing authorities (housing authorities) are required to have regard to it in exercising their functions under Part 6 of the 1996 Act.
2. It is in addition to the Guidance for Local Housing Authorities in England on the Allocation of Accommodation issued in June 2012 (the 2012 guidance).
3. References to sections in this guidance are references to sections in the 1996 Act.
4. Housing authorities are encouraged to review their existing allocation policies and revise them, where appropriate, in the light of this guidance as soon as possible.

Purpose of the guidance

5. Social housing – stable and affordable – is of enormous importance for the millions who live in it now and for those who look to it to provide the support they need in future. The way it is allocated is key to creating communities where people choose to live and are able to prosper.
6. The Government has made clear that we expect social homes to go to people who genuinely need and deserve them. That is why the Localism Act has maintained the protection provided by the statutory reasonable preference criteria which ensure that priority for social housing continues to be given to those in the greatest housing need.
7. The Localism Act has also given back to local authorities the freedom to better manage their social housing waiting list, as well as providing authorities with greater flexibility to enable them to tackle homelessness by providing homeless households with suitable private sector accommodation. Local authorities can now decide who qualifies for social housing in their area, and can develop solutions which make best use of the social housing stock. This guidance is intended to assist housing authorities to make full use of the flexibilities within the allocation legislation to better meet the needs of their local residents and their local communities.
8. The Government has also taken decisive steps to increase the supply of affordable housing, with £19.5 billion of public and private investment in the current Spending Review, and up to £23.3 billion more money invested from 2015 to 2018 alongside receipts from Right to Buy sales.
9. This investment in new affordable housing will help to meet housing need. We now want to see local authorities take an approach to social housing allocations which gives greater priority to those in need who have invested in and demonstrated a commitment to their local community.

10. The Prime Minister has made clear the Government's determination to tackle the widespread perception that the way social housing is allocated is unfair, and to address concerns that the system favours households who have little connection to the local area over local people and members of the Armed Forces. Another important aim of this guidance, therefore, is to encourage authorities to be open and transparent about who is applying for and being allocated social housing in their area.

Qualification for social housing

11. Section 160ZA(6) provides that housing authorities may only allocate accommodation to people who are defined as 'qualifying persons' and section 160ZA(7) gives them the power to decide the classes of people who are, or are not, qualifying persons.

12. The Government is of the view that, in deciding who qualifies or does not qualify for social housing, local authorities should ensure that they prioritise applicants who can demonstrate a close association with their local area. Social housing is a scarce resource, and the Government believes that it is appropriate, proportionate and in the public interest to restrict access in this way, to ensure that, as far as possible, sufficient affordable housing is available for those amongst the local population who are on low incomes or otherwise disadvantaged and who would find it particularly difficult to find a home on the open market.

13. Some housing authorities have decided to include a residency requirement as part of their qualification criteria, requiring the applicant (or member of the applicant's household) to have lived within the authority's district for a specified period of time in order to qualify for an allocation of social housing. The Secretary of State believes that including a residency requirement is appropriate and strongly encourages all housing authorities to adopt such an approach. The Secretary of State believes that a reasonable period of residency would be at least two years.

14. We are aware that in some parts of the country, housing authorities share a common allocation policy with their neighbours and may wish to adopt a broader residency test which would be met if an applicant lives in any of the partners' districts. Such an approach might be particularly appropriate where an established housing market area spans a number of local authority districts, and could help promote labour mobility within a wider geographical area.

15. Housing authorities may wish to consider whether there is a need to adopt other qualification criteria alongside a residency requirement to enable and ensure that applicants who are not currently resident in the district who can still demonstrate a strong association to the local area are able to qualify. Examples of such criteria might include:

- family association – for example, where the applicant has close family who live in the district and who have done so for a minimum period of time

- employment in the district – for example, where the applicant or member of their household is currently employed in the district and has worked there for a certain number of years

16. Whatever qualification criteria for social housing authorities adopt, they will need to have regard to their duties under the Equality Act 2010, as well as their duties under other relevant legislation such as s.225 of the Housing Act 2004.

17. Housing authorities are reminded of the desirability of operating a housing options approach (see paragraph 3.19 of the 2012 guidance) as part of a move to a managed waiting list. In this way, people who have not lived in the area long enough to qualify for social housing can be provided with advice and any necessary support to help them find appropriate alternative solutions.

Providing for exceptions

18. Housing authorities should consider the need to provide for exceptions from their residency requirement; and must make an exception for certain members of the regular and reserve Armed Forces – see further at paragraph 23 below. Providing for appropriate exceptions when framing residency requirements would be in line with paragraphs 3.22 and 3.24 of the 2012 guidance.

19. It is important that housing authorities retain the flexibility to take proper account of special circumstances. This can include providing protection to people who need to move away from another area, to escape violence or harm; as well as enabling those who need to return, such as homeless families and care leavers whom the authority have housed outside their district, and those who need support to rehabilitate and integrate back into the community.

20. There may also be sound policy reasons not to apply a residency test to existing social tenants seeking to move between local authorities. Housing authorities should assist in tackling under-occupation, for example allowing tenants to move if they wish to downsize to a smaller social home. There may also be sound housing management reasons to disapply a residency test for hard to let stock.

21. These examples are not intended to be exhaustive and housing authorities may wish to consider providing for other appropriate exceptions in the light of local circumstances. In addition, authorities retain a discretion to deal with individual cases where there are exceptional circumstances.

22. The Government wants to increase opportunities for hardworking households. That is why we have announced an intention to introduce a Right to Move for social tenants seeking to move to take up a job or be closer to their work, whether within the local authority district or across local authority boundaries. We will consult on options for implementing this policy in Spring 2014. In the meantime, we expect housing authorities to make appropriate exceptions to their residency test for social tenants so as not to impede labour market mobility.

Members of the Armed Forces

23. The Government is committed to ensuring that Service personnel and their families have access to appropriate accommodation when they leave the Armed Forces. The Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012 (SI 2012/1869) ensure that, where housing authorities decide to use a local connection¹ requirement as a qualification criterion, they must not apply that criterion to the following persons so as to disqualify them from an allocation of social housing:

- a) those who are currently serving in the regular forces or who were serving in the regular forces at any time in the five years preceding their application for an allocation of social housing
- b) bereaved spouses or civil partners of those serving in the regular forces where (i) the bereaved spouse or civil partner has recently ceased, or will cease to be entitled, to reside in Ministry of Defence accommodation following the death of their service spouse or civil partner, and (ii) the death was wholly or partly attributable to their service
- c) existing or former members of the reserve forces who are suffering from a serious injury, illness, or disability which is wholly or partly attributable to their service

24. The Regulations give effect to the Government's commitment that those who serve in the regular and reserve Armed Forces are not disadvantaged in their access to social housing by the requirements of their service.

25. When adopting a residency test, we expect housing authorities to also consider the wider needs of the Armed Forces community, and to be sympathetic to changing family circumstances, recognising, for example, that the spouses and partners of Service personnel can also be disadvantaged by the need to move from base to base.

Prioritising local connection

26. Housing authorities have the ability to take account of any local connection between the applicant and their district when determining relative priorities between households who are on the waiting list (s.166A(5)). For these purposes, local connection is defined by reference to s.199 of the 1996 Act.

27. Housing authorities should consider whether, in the light of local circumstances, there is a need to take advantage of this flexibility, in addition to applying a residency requirement as part of their qualification criteria. Examples of circumstances in which the power might be useful would include:

¹ As defined by s.199 of the 1996 Act. A person has a local connection with the district of a housing authority if he has a connection because of normal residence there (either current or previous) of his own choice, employment there, family connections or special circumstances.

- dealing sensitively with lettings in rural villages by giving priority to those with a local connection to the parish, as part of a local lettings policy (section 166A(6)(b) – see paragraph 4.21 of the 2012 guidance)
- where a group of housing authorities apply a wider residency qualification test, to give greater priority to people who live or work (or have close family) in any of the partner authorities' own district

Information about allocations

28. It is important that applicants and the wider community understand how social housing is allocated in their area, and that they know who is getting that social housing, so that they can see that the allocation system is fair and the authority is complying with its allocation scheme. We would encourage housing authorities to consider how accurate and anonymised information on waiting list applicants and lettings outcomes could be routinely published, to strengthen public confidence in the fairness of their allocation scheme.