

## HOMES POLICY DEVELOPMENT GROUP 16 MARCH 2021

### DEVON HOME CHOICE POLICY REVIEW

**Cabinet Member(s):** Cllr Bob Evans, Cabinet Member with Responsibility for Homes & Property Services

**Responsible Officer:** Mrs Claire Fry, Operations Manager for Housing Services/Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing

**Reason for Report and Recommendation:** The Management Board of the Devon Home Choice scheme has undertaken a consultation on proposed changes to associated policy and procedures and this report provides more information about this. Individual local authority members of the scheme have been asked to approve the adoption of these changes.

**Recommendation: Members are recommended to agree the proposed changes to the Devon Home Choice scheme and to request that the Cabinet adopts them**

**Financial Implications:** Management of the Housing Register is a strategic housing activity and there is a budget set aside within the General Fund to support this work. The Devon Home Choice scheme is funded by each of the local authorities with housing responsibilities in Devon, including the two unitary authorities Plymouth City Council and Torbay Council, and also by registered providers of social housing (including the Council) which make a payment in respect of each property advertised through the scheme. Although the proposal policy changes do not impact upon this, for clarity, currently, strategic housing authorities, of which there are 10 in Devon including MDDC, pay £1k each to support the functioning of the scheme and all landlords pay £25 advertisement fee per property. The budget is reviewed by the Management Board including a representative of MDDC (Claire Fry) on a quarterly basis.

**Budget and Policy Framework:** There are no direct budget implications arising from this policy review. The Devon Home Choice Policy sets out the Devon housing authorities' collective social housing scheme which determine priorities, and details the procedures to be followed in allocating housing accommodation as required by the Housing Act 1996. More information is provided under Legal Implication and within the report.

**Legal Implications:** Part 6 of the Housing Act 1996 regulates the allocation of social rented housing by local authorities. Part 6 was amended by the Homelessness Act 2002, and, with effect from 18 June 2012, by the Localism Act 2011. Local authorities are not under a duty to maintain a housing register but are required to have an allocation scheme for determining priorities between applicants for housing which sets out the procedure to be followed when allocating housing accommodation.

There is a regulatory requirement for registered providers of social housing to cooperate with local authorities' strategic housing functions and their duties to meet

identified local housing needs. This includes assistance with local authorities' homelessness duties, and through meeting objectives in nominations agreements.

**Risk Assessment:** Failure to run a housing register that is transparent could result in complaints from people who feel that they have been unfairly disadvantaged and this could result in reputational damage.

**Equality Impact Assessment:** Devon Home Choice provides an assessment framework which is used to ensure that all requests for rehousing are managed in the same way, ensuring that no one housing applicant is treated any more or less favourably than any other. Diversity data is requested from housing applicants and is recorded so that it can be monitored.

Those who have special needs, which may include disabilities, a low level of literacy or mental health issues may be disadvantaged because the Council expects housing applicants to apply for housing online but our Housing Options Assistant will assist those with no internet access with the completion of the application form and updating their circumstances when necessary.

The Council can also set up auto-bids which enable bids to be placed on suitable properties in an applicant's areas of preference without them having to go into the system themselves. Those people who are not used to using online services, or who live in areas where broadband coverage is poor, may also be disadvantaged but the auto-bid system can be used to mitigate this, too. There is a video which is available on line which provides an overview of the scheme and how to use it

The Management Board monitors reports relating to performance on a regular basis with a view to checking engagement, and periodically monitors the results of satisfaction surveys which often highlight relevant issues. There is an annual review of the scheme and any changes necessary to mitigate the impact of any issues identified can be implemented.

**Relationship to Corporate Plan:** The Corporate Plan states that homes are a priority for the Council.

**Impact on Climate Change:** None directly arising from this policy update. In wider terms, the ICT system used to administer the Devon Home Choice scheme is a cloud-based one. The Council encourages anyone wishing to register for rehousing or those wishing to update their existing application to do so online, thus reducing the need for paper. The Council does not carry a stock of printed application forms but will provide support to those who do not have internet access by assisting them with making applications or updating existing applications over the telephone. Previously, home visits were undertaken as necessary but these have been suspended since the start of the pandemic.

## **1. Introduction/Background**

1.1 Local authorities are required to have allocation schemes which give "reasonable preference" to certain categories of those in housing need. In addition, housing can only be allocated to those who are "qualifying persons", in accordance with the provisions of the Housing Act 1996. The statutory guidance issued in June 2012 provides direction on the factors which affect

eligibility and qualification. Housing authorities are required to have regard to this in exercising their functions under Part 6 of the Housing Act 1996.

- 1.2 Historically, local authorities held housing waiting lists but since 2010 they have been expected to operate choice based lettings schemes. This way of letting homes represented an alternative approach to the management of housing allocations which had previously been based on the award of points to those in housing need. Schemes set out the basis on which additional points would be awarded and those with the most points generally had the highest priority for rehousing.
- 1.3 The Localism Act 2011 gave local authorities more freedoms with regard to decision-making relating to qualifying applicants who could register for rehousing. Whilst Councils are required to give “reasonable preference” to some people as defined in the statutory guidance, they can manage the housing waiting list in such a way as to support any local priorities. Therefore, they can refuse to accept applications from those who are not in housing need.
- 1.4 Local authorities are also expected to have a tenancy strategy which must be shared with all the registered providers of social housing which work in their areas. These strategies must provide guidance to those registered providers. Since the Council has retained housing stock, the landlord service is a registered provider and is therefore required to have due regard to the tenancy strategy. Our tenancy strategy is available to view on the webpages of the Housing Service. It is due for review and this will be undertaken during the project to consolidate housing-related policies which is planned as part of the service improvement programme. Members have been briefed on this programme previously.
- 1.5 In addition, local authorities are expected to have regard to their homelessness strategies when preparing or modifying their housing allocation schemes.
- 1.6 It should be noted that, since 2012, successive Governments have issued further statutory guidance relating to qualification criteria. This includes reference to local connection and armed forces personnel, and to eligibility for social housing post-Brexit.

## **2 Devon Home Choice**

- 2.1 The Council works in partnership with the other local authorities in Devon to deliver a choice based lettings scheme known as Devon Home Choice (DHC). All the other registered providers which operate in the Districts, and the two unitary authorities, which work across Devon are also involved in the scheme as partners.
- 2.2 The aims of DHC, as stated in the policy document, 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

- 2.3 DHC provides a common:
- Application form
  - Housing register
  - Approach to assessing housing need and awarding priority
  - Approach to advertising available properties
- 2.4 The DHC scheme includes an assessment framework which contains detailed criteria against which housing need is determined. The circumstances of all housing applicants are considered in accordance with this framework and they are then placed into one of five bands, according to need, in descending order of priority.
- 2.5 The bands range from Band A, where someone is in urgent need of rehousing (usually due to serious threats of violence or for medical reasons), to Band E, which is also known as the band of no housing need.
- 2.6 When allocating a home, in common with those of other landlords which work within the scheme, our Officers will ensure that applicants have a need for the type of home which they have bid for. This is in order to ensure that the Housing Service makes the best use of stock. If the property has adaptations, it would only be let to someone who had a need for the type of accommodation being offered. Landlords are also required to verify the local connection of housing applicants, if required.
- 2.7 The Council has an allocations policy which is available to view on the webpages of the Housing Service. It is due for review and this will be undertaken as part of the project to consolidate housing-related policies which is planned as part of the service improvement programme referred to within this report previously.
- 2.8 The allocations policy states that the Council uses the DHC scheme to assess housing need and to allocate our own housing stock. It notes that the DHC scheme is very prescriptive and that it sets out how registered providers will give preference to certain applicants by labelling adverts. The Council's allocations policy explains when the preference labels will be used and sets out the method to be used to validate each label. Labels are defined.
- 2.9 The Council is a member of the Management Board which oversees the work of the two Officers employed to manage DHC. These Officers are employed by Exeter City Council on behalf of the partnership. It should be noted that the Partnership Agreement is reviewed annually and that the Operations Manager for Housing Services has delegated authority to sign this.

### **3 Consultation**

- 3.1 The assessment framework provided by DHC has been reviewed on a number of occasions in recent years to ensure that any changes included in relevant legislation and statutory instruments were met, and in line with good practice. For example, changes arising from the Homelessness Reduction Act 2017 and associated Code of Guidance were implemented and also those

relating to the regulations relating to the allocation of social housing following the UK's exit from the European Union issued in 2019.

- 3.2 The Management Board at the meeting on 11 September 2020 agreed that a number of changes being proposed were significant and therefore a public consultation should be undertaken.
- 3.3 The consultation aimed to obtain feedback from (including but not limited to) statutory agency workers, voluntary agency workers, existing tenants of a DHC partner landlord (e.g. Mid Devon DC) and other DHC applicants
- 3.4 The questions contained within the consultation are shown in Annex 1.
- 3.5 In line with this decision, a consultation ran for 13 weeks from 1 November 2020 until 31 January 2021 on the DHC home page.
- 3.6 An appropriate message was added to the login pages of applicants together with a link to the consultation. In addition, a bulk email was sent to every active applicant on the register. A county-wide publicity strategy was agreed and on 23 November 2020, Members of the Council were advised about the consultation in the Weekly Information Sheet.
- 3.7 In line with the project plan, the consultation responses were analysed during February and the outcome of the consultation responses is due to be circulated to members of the Management Board on 1 March 2021 with the deadline for the policy review changes to be signed off at the meeting on 12 March 2021. The draft findings of the Management Board against each proposal as available ahead of the March meeting are set out in Section 4 below.
- 3.8 The Operations Manager for Housing Services will provide a further (verbal) update on the outcome of the consultation at the meeting of the Homes Policy Development Group on 16 March 2021.
- 3.9 The Management Board was planning to publish the new policy and the results of the consultation on the DHC website with effect from 1 April 2021 but the Operations Manager for Housing Services has made the DHC Management Board aware of the decision-making timetable of the Council and therefore the publication will be delayed until the Cabinet accepts or rejects any recommendations made by the Homes PDG.

#### **4 The Proposed Changes**

- 4.1 A list of the proposed changes to the DHC policy are shown in Annex 2. More information of each of these is provided below.
- 4.2 Proposal 1 relates to bidding for larger 1-bed properties where applicants are lacking 2-bedrooms.

It was suggested because currently there is a shortage of larger homes in Devon. As an illustration of this, the Council, as a landlord, only has 39 x 4 bedroom units, 1 x 5 bedroom unit and 1 x 6 bedroom unit. In the private

sector, families can make a choice as to whether or not to accept a home smaller than they need in practice because that home will offer more living space than their existing property. This proposal was based on this reasoning but it is not recommended for agreement by the Management Board.

- 4.3 Proposal 2 relates to a new question on the application form regarding housing need criteria.

This is recommended for agreement by the Management Board. It means that housing applicants will be made aware of home-ownership options which may be open to them as an alternative to social housing.

- 4.4 Proposal 3 relates to maximum occupancy of larger properties.

This arose due to the shortage of larger homes in the county. In many cases, the shortage of 6 and 7 bedroom homes available for large households is such that they may never be rehoused if the decision on an allocation is related to their bedroom need. However, many 4 and 5 bedroom homes can accommodate large households with the members of that household deciding how to make best use of the space available to them. Therefore, for example, in a family with several children, the largest bedroom may be used to accommodate four children in two sets of bunk beds. The Management Board is recommending agreement of this change.

- 4.5 Proposal 4 relates to occupancy of high-rise flats by younger children.

This will not apply in Mid Devon due to the fact that there are no large blocks of flats taller than 4 stories. However, the aim of this proposed change is to minimise the risk of serious injury or death to young children living in flats located above the third floor of a building. This was agreed in principle by the Management Board subject to a review of the current cases with this banding reason.

- 4.6 Proposal 5 relates to those household members who cannot succeed to a tenancy following the death of a tenant. It gives some priority for rehousing to such cases provided they have lived at the home for 12 months and that if they have approached the local authority, that the authority has confirmed that s188 duty to accommodate is triggered, in line with homelessness legislation.

As a registered provider of social housing, the Council has a tenancy changes policy which offers Officers some discretion in such cases. Where the death of a tenant leaves someone in the property without a right to succession, the Council may consider granting a tenancy, or offer a tenancy at an alternative property. However, the tenancy changes policy states that in exercising this discretion: "We will ensure that the Tenancy Policy, Allocations Policy and Devon Home Choice Scheme are not undermined".

The effect of proposal 5 is to ensure that those who may require rehousing due to the death of the tenant at the property where they have lived for at least a year have their circumstances assessed by the Council in its strategic role. This will ensure that they are given the option to bid for a property of the right size and type according to their needs. This does not mean that they

have to be homeless, just that they are required to approach the Council. In this way, the Council in its role as a strategic housing authority can monitor such cases including those arising in housing association stock. Priority for rehousing will be awarded as long as applicants make an attempt to engage with the Council and are proactive about searching for another home. Their options are therefore wider than if the landlord was seeking to identify alternative accommodation suitable for them from within their own stock.

This proposal is recommended for agreement by the Management Board.

4.7 Proposal 6 relates to management of financial risk.

It specifically relates to applicants who have rent arrears or have had rent arrears included in a Debt Relief Order or bankruptcy and there is a recommendation that a sanction is applied in these cases for a period of 2 years from the date of discharge of the debt. This is recommended for agreement by the Management Board.

4.8 Proposal 7 relates to the provision relating to the assessment of cases where there is severe overcrowding.

Rather than referring to 2 children in a household lacking a bedroom, the proposal suggests that the policy will be amended so that the reference is to 2 people and is recommended for agreement by the Management Board.

4.9 Proposal 8 relates to the award of priority for rehousing when hazards may be present in a home.

Environmental Health teams from different authorities were consulted. As a result of their recommendation, the Management Board agreed that there should be no change to the policy of awarding Band B (a high priority for rehousing) to those households which are so overcrowded as to mean that there is a Category 1 hazard (arising from the Housing Health and Safety Rating System – HHSRS) in relation to the overcrowding.

## 5 Recommendation

5.1 Members are recommended to agree the proposed changes to the Devon Home Choice scheme and to request that the Cabinet adopts them

**Contact for more Information:** Mrs Claire Fry, Operations Manager for Housing Services, tel: 01884 255255 (via callback) [cfry@middevon.gov.uk](mailto:cfry@middevon.gov.uk) or Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing [snewcombe@middevon.gov.uk](mailto:snewcombe@middevon.gov.uk)

### Circulation of the Report:

Members of the Housing PDG  
Cllr Bob Evans, Cabinet Member for Homes  
All Leadership Team

All Corporate Management Team  
Group/Operations Managers  
Legal Services

**List of Background Papers:**

Devon Home Choice home page:

<https://www.devonhomechoice.com/>

Mid Devon District Council housing-related strategies and polices:

<https://www.middevon.gov.uk/residents/housing/council-housing/strategies-and-policies/>

**Annex 1 – DHC Consultation Form (separate PDF doc)**

## **Annex 2 – Proposed changes to DHC Policy**

**Proposal 1:** That applicants who are lacking 2 bedrooms be allowed to bid for homes 1 bedroom larger than their current home.

**Proposal 2:** That a new question is added to Section 1 of the application form (Housing need criteria), and a corresponding indicator or banding on the application to identify applicants who are interested in Rent to Buy or Build to Rent properties.

**Proposal 3:** That 4 and 5 bedroom homes are advertised using the maximum number of occupants as a restriction rather than the bedroom need.

**Proposal 4:** That Band C for 'Children under 8 above the third floor' is not awarded in blocks of flats where improvement works have been carried out, including windows fitted with restrictors, which would mean that the flats would be suitable for households with children under 8.

**Proposal 5:** That we allow some priority for members of household left in use & occupation after death of tenant and cannot succeed tenancy.

**Proposal 6:** That we review the current policy around the registering, banding and letting of properties to applicants who have rent arrears or have had rent arrears included in a DRO or bankruptcy.

**Proposal 7:** That paragraph 3.5.3.1 of the policy (Band B for severe overcrowding) be amended to refer to 2 people lacking a bedroom rather than 2 children).

**Proposal 8:** That the reference to Category 1 hazards in the Band B reason for severe overcrowding be amended so that it is not a blanket award of Band B