

Report for: Homes Policy Development Group

Date of Meeting:	19 th March 2024
Subject:	GOVERNMENT CONSULTATION ON REFORMS TO ALLOCATION OF SOCIAL HOUSING
Cabinet Member:	Cllr Simon Clist Cabinet Member for Housing and Property
Responsible Officer:	Simon Newcombe - Corporate Manager for Public Health, Regulation and Housing
Exempt:	None
Wards Affected:	All Wards
Enclosures:	Annex A – Baroness Scott letter to Leaders 1 st February 2024

Section 1 – Summary and Recommendation(s)

On the 1st February, Baroness Scott (Parliamentary Under Secretary of State for Social Housing and Faith) wrote to all Council leaders setting out that government has launched a consultation seeking views on a series of reforms to how social housing is allocated in England. The consultation period closes on 26 March and the purpose of this report is to present a proposed response to the consultation on the proposed reforms and seek further guidance and views from the PDG on this response before it is provided.

Within the consultation, government recognise the vital role of social housing for families and our communities. It highlights that its proposed reforms seek to provide greater clarity of a national minimum expectation for qualifications tests whilst still allowing for local flexibility.

The proposed reforms have been reviewed against current local social housing allocation policy (Devon Home Choice) and with regard to any wider potential social housing implications.

Recommendation:

That the PDG notes the review set out herein and agrees this forms the basis of the proposed Mid Devon District Council response to the consultation.

Section 2 – Report

1 Introduction

- 1.1 The reforms which the government are seeking views on are summarised below through a series of new or updated tests:

UK connection test – requiring people to be a British citizen, Irish citizen, Commonwealth citizen with a right of abode, or EEA or Swiss citizen with equal treatment rights in matters of housing, or otherwise to have been lawfully resident in the UK for ten years, in order to be eligible for social housing.

Exemptions are being consulted upon for those arriving into the UK via safe and legal resettlement routes and the Ukrainian temporary visa schemes. The stated aim of this proposal is to allow for the allocation of more social homes to those with the strongest connection to the UK, while enabling the Government to continue to deliver its commitments to provide urgent humanitarian support.

Local connection test – preventing individuals from being allocated social housing if they have not had links to the local authority area for two years. The stated aim of this proposal is to ensure greater consistency across the country and ensure more local people can access social housing in the area they call home.

Income test – households earning above a maximum threshold (to be defined following responses to the consultation) would not qualify for social housing. It will not be applied to existing tenants and there will be no change to rights, tenures, length of tenancies or rents of existing tenants.

Anti-social behaviour test – disqualifying people who have unspent convictions for certain criminal anti-social behaviour offences, as well as certain civil orders, from social housing for a defined period.

Terrorism test – terrorist offenders with unspent convictions will not qualify for social housing unless excluding them would increase the risk to public safety.

False statement test – mandating a period of disqualification for those who knowingly or recklessly make false statements when applying for social housing.

- 1.2 The government indicate that through the proposals they are seeking to introduce greater consistency across the country to ensure more people can access social housing. Consequently, the reforms must be reviewed against current policy. Officers have consequently reviewed each specific reforms in the context of current county-wide Devon Home Choice (DHC) social housing allocation policy. The Council is a DHC partner alongside all 10 Local Authorities (LA) and 24 additional private registered providers of social housing.

- 1.3 The outcomes of the above review and any wider potential implications with regard to the proposals are set out in the proposed consultation response in Section 2.
- 1.4 The letter from Baroness Scott with an explanatory note was circulated to all members of the PDG in advance of this meeting on 7 February 2024. This invited comments from members in advance of the meeting to help shape the proposed response. One member provided a response expressing no specific concerns with the proposals.
- 1.5 Views have also been sought from Cllr Clist (as Housing Portfolio holder).
- 1.6 Whilst not directly part of the proposal, the consultation has set out to remind Local Authorities that the government is committed to a 'three strikes and you're out' expectation of social housing landlords, as set out in the Anti-Social Behaviour Action Plan published last year. This means that there is an expectation to evict tenants whose behaviour is disruptive to neighbours and jeopardises community cohesion. More information is provided in Section 3.
- 1.7 The full consultation proposal is attached in Annex 1.

2 Review against current DHC social housing allocation policy and other potential implications

2.1 UK connection test

The current DHC policy is fit for purpose but the proposal will provide further clarity to what is already in place.

2.2 Local connection test

The current DHC policy allows for a local preference and is weighting towards this but does allow a person with no local connection to the LA to obtain housing subject to specific criteria. There are current exemptions in place legally for those fleeing domestic abuse and where care leavers are considered to have a local connection to each local authority in Devon irrespective of where they were placed in care if there were a responsibility of Devon County Council. Clarification is needed as to how the updated local connection test proposed will work alongside these existing legal provisions.

2.3 Income test

This is already in place within DHC policy as follows:

- Households with a gross household income more than six times higher than the relevant Local Housing Allowance level prevailing in Devon are placed in E band (no housing need/lowest priority)
- Current capital savings and equity thresholds also apply:
 - General needs housing: £16,000
 - Sheltered/Older Persons housing: 1-bed self-contained £120,000 and 2-bed £130,000

2.4 **Terrorism test**

This is a new requirement not covered by current DHC policy. The policy would therefore require updating to reflect any legal changes. There are practical considerations and potential costs associated with unspent conviction checks which require clarification and would introduce additional steps/potential delays in the housing application and/or allocation process.

2.5 **False statement test**

Current DHC policy is already consistent with the introduction of a false statement test. The policy states that any applicant making false or misleading statement have their application refused or withdrawn from the DHC register and/or have any offers made withdrawn.

There are also provisions in place for fraud investigations and these may also lead to court action.

The proposal for a mandated period of time of disqualification is new and would therefore need to be incorporated into an update of the DHC policy to reflect any legal changes.

2.6 **Wider implications and considerations**

Several housing sector bodies have publically warned that the plans would amount to “further rationing of an already scarce resource”. However, given the relative alignment of current DHC policy with the proposals then the direct impact of these proposed changes locally is potentially not so severe.

These proposals will nonetheless not directly significantly address the housing shortage and the net loss of social rented homes since 2011 – more affordable housing is needed to address the housing crisis and alleviate pressures on allocation processes.

The new reforms will only apply to applicants and have no impact on existing tenants.

3 Anti-social behaviour (ASB)

3.1 Whilst not a direct part of the proposed reforms at this stage, the government direction of travel on this issue is reiterated through the following statement in the consultation: ‘We are also committed to a ‘three strikes and you’re out’ expectation of social housing landlords, as set out in the Anti-Social Behaviour Action Plan published last year. This means that they will be expected to evict tenants whose behaviour is disruptive to neighbours and jeopardises community cohesion’.

3.2 Arguably therefore the message here is clear: play by the rules. If tenants of social housing choose not to, then they risk being not being prioritised for new social tenancies and it made easier to end tenancies on ASB grounds.

3.3 However, there is much that needs clarification which this consultation does not cover. In particular, there are several issues or concerns around how these plans might work in reality and what the legislation will look like. For example:

- What counts as a 'strike'?
- Who makes the judgement and what checks and balances are needed?
- Rights of appeal?
- How will this be consistent and proportionate?
- Will this adopt a trauma-informed approach and will any encouragement be given to understanding and potentially seeking to address the underlying causes of behaviour first before 'strikes' are issued?
- What will the impact be on homelessness especially if those 'de-prioritised' could be banned for several years from accessing social housing?
- How will people be 'de-prioritised' – for example will it become part of court possession process?
- Closure orders and proposals to make these mandatory grounds for disqualification (see below)

3.4 **Closure orders**

Working with colleagues in the police, we have on occasion utilised these orders to great effect to protect vulnerable tenants. By way of example, they have been utilised in cases of 'cuckooing' where the home of a vulnerable person is taken over by a criminal in order to use it to deal, store or take drugs, facilitate sex work, as a place for them to live and/or to financially abuse the tenant. Here, tenants have been very supportive of having such an order for their property as it gives them the 'permission' to say that the abusers are not allowed in their property and empowers them to call for the police or the council if they require support. Such orders also set out a clear outcome where supporting evidence is provided, thereby encouraging tenants to work with us.

In these cases, a move of the tenant to alternative accommodation may be an overall productive outcome and one which disrupts criminality and anti-social behaviour.

To implement a blanket disqualification for a tenant subject to a closure order would detract from the preventative and proactive elements of these orders. Tenants would be unlikely to support any such action if it risked their current tenancy or any future move. The policy proposal could therefore reduce the tools available to the council as a social landlord and undermine local crime reduction strategies.

4 **Recommendation**

4.1 In accordance with the above, the following recommendation is made:

1. That the PDG notes the review set out herein and agrees this forms the basis of the proposed Mid Devon District Council response to the consultation.

Financial Implications

This report on its own does not give rise to any direct financial implication but implementation of the proposal may introduce additional administrative cost burdens, reflected in the review and proposed response.

Legal Implications

This is a consultation on proposed legal changes. If implemented, the changes will be delivered by secondary legislation under Part 6 of the Housing Act 1996.

Risk Assessment

See section 2 and 3.

Impact on Climate Change

None directly arising from this report.

Equalities Impact Assessment

Not applicable.

Relationship to Corporate Plan

Not applicable.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151

Date: 05 Mar 2024

Statutory Officer: Maria De Leiburne

Agreed on behalf of the Monitoring Officer

Date: 11 Mar 2024

Chief Officer: Simon Newcombe

Agreed by or on behalf of the Chief Executive/Corporate Director

Date: 29 February 2024

Performance and risk: Steve Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

Date: 05/03/2024

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers

Contact: Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing. Email: snewcombe@middevon.gov.uk. Telephone: 01884 255255.