

TITLE OF REPORT: ADOPTION OF A NEW COMMON HOUSING ALLOCATION SCHEME

REPORT OF THE HEAD OF HOUSING AND PUBLIC PROTECTION
PORTFOLIO HOLDER: COUNCILLOR BERNARD LOVEWELL

1. SUMMARY

- 1.1 This report seeks Cabinet approval to introduce a number of amendments to the Common Housing Allocation Scheme (CHAS) that was approved by the Cabinet in March 2013.

2. RECOMMENDATIONS

- 2.1 That Cabinet approve the latest version of the Common Housing Allocation Scheme (CHAS), as attached at Appendix A.
- 2.2 That the Cabinet delegates to the Portfolio Holder for Housing and Environmental Health, in conjunction with the Head of Housing and Public Protection, the power to make minor amendments to the CHAS and to agree the launch date for the commencement of the new CHAS.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To enable to introduction of a new Common Housing Allocation Scheme that better meets the housing needs of North Hertfordshire.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The Cabinet could decide against approving the new Common Housing Allocation Scheme (CHAS), however the new provisions strengthening eligibility for social housing would remain unutilised.

5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 5.1 Cllr Bernard Lovewell, the Portfolio Holder for Housing and Environmental Health, has been consulted and is supportive of the proposals contained in this report.
- 5.2 The Council's housing partners North Hertfordshire Homes (NHH) and the Howard Cottage Housing Association (HCHA) are both supportive of the proposals contained in this report.

6. FORWARD PLAN

- 6.1 This report contains a recommendation on a key decision that was first notified to the public in the Forward Plan on the 16th June 2013.

7. BACKGROUND

7.1 At its meeting on the 26th March 2013, the Cabinet resolved:

(1) That the new version of the Common Housing Allocation Scheme (CHAS), as set out at Appendix D to the report, be approved;

(2) That the Head of Housing and Public Protection, in conjunction with the Portfolio Holder for Housing and Environmental Health, be delegated the power to make minor amendments to the CHAS and to agree the launch date for the commencement of the new CHAS; and

(3) That a consistent and fair mechanism for exercising limited discretion be developed and agreed by the Head of Housing and Public Protection, in conjunction with the Portfolio Holder for Housing and Environmental Health, the Shared Internal Audit Service (SIAS), and the Council's housing partners.

7.2 The version of the CHAS agreed by Cabinet in March is attached as Appendix A, with the proposed changes 'tracked' for ease of reference. Some of the changes have been made to correct 'typos' or to reorder the text. The remaining changes are amendments to the provisions.

7.3 The CHAS agreed by Cabinet in March 2013 has yet to be implemented for the reasons set out in paragraphs 8.1 to 8.3 below. Should Cabinet agree these latest changes, the new Scheme will be implemented within 3-4 months.

7.4 In the year 2013/14, there were a total of 599 lettings of social housing properties via the CHAS. NHH let 431 properties (72%) and HCHA let 93 units (16%) during this period.

8. ISSUES

8.1 The Council's housing partners, NHH and HCHA, have both registered concern over the impact of Welfare Reform in terms of the number of tenants who will probably fall in to rent arrears and the likely increase in the number of evictions that are undertaken. This would have further ramifications for the income of both organisations, potentially putting at risk their business plans.

8.2 NHH undertook 29 evictions in 2011/12 and 23 in 2012/13 whilst HCHA evicted 3 households in 2011/12 and 6 in 2012/13. However, both NHH and HCHA expect evictions rates to rise due to the implications of Welfare Reform and are therefore concerned that those evicted could eventually return to them in future years via the CHAS. They have therefore requested that stronger sanctions are added to the CHAS to reduce the risk of them housing former tenants with poor tenancy records in the near future.

8.3 In the initial version of the CHAS agreed by the Cabinet in March 2013, rent arrear evictees could not access the housing list until all arrears were repaid to the evicting landlord. However, once all debts were repaid they could join the housing list, although they could not be offered housing by the evicting landlord for a period of five years from the date of their eviction. In the case of those evicted due to anti social behaviour, they could not join the housing list unless they had lived in the community for a period of five years without a conviction of this type.

- 8.5 The Council also sought the advice of Counsel on certain aspects of the new CHAS and the risk of a potential legal challenge was highlighted if disqualification is only applied in respect of properties to be let by specific providers to their former tenants. Counsel also stated that in their opinion, it is not lawful to have specific disqualification criteria within the CHAS only applying to nominations (for vacancies) by some, but not all, of the providers under the scheme. As a consequence, the Council needs to bring in the measures concerning exclusions for all former tenants, not only those of NHH and HCHA.
- 8.4 The new proposals introduce a five year housing registration ban for *all* social housing *evictees*, from the date of the eviction. Furthermore, a ten year ban from accommodation owned by the *evicting* landlord is also proposed for all evictees, not just those of NHH and HCHA.
- 8.6 Counsel also advised that all prospective disqualifications at paragraphs 5.4-5.7 (inclusive) in the CHAS should clearly state that any decision could be subject to the exceptional circumstances override at paragraph 18.2.
- 8.7 Discretion may be considered where there are instances of acute housing need concerning a household that would normally be excluded from the register, but can demonstrate mitigating circumstances. When discretion is being considered, individual cases will be reviewed by all NHHP members ensuring decisions remain consistent and fair. The Council is working with the SIAS on a consistent and fair mechanism for exercising limited discretion.

9. LEGAL IMPLICATIONS

- 9.1 It is within the Terms of Reference for Cabinet to prepare and agree to implement policies and strategies other than those reserved to Council. This includes policies relating to housing matters including enabling and provision of housing and homelessness.
- 9.2 Section 4 of the Homelessness Act 2002 confirms that the District Council is the Local Housing Authority (LHA) under the Housing Act 1985 Section 1 (1).
- 9.3 Section 14 (1) of the Homelessness Act 2002 provides that the LHA is no longer required to maintain a housing register. However, Section 166A (1) of the Housing Act 1996 states that every LHA shall have a scheme for determining local priorities and the procedure to be followed in allocating housing.
- 9.4 Section 166A (12) of the Housing Act 1996 states that when framing, or modifying their allocation scheme, authorities must have regard to their tenancy and homelessness strategies.
- 9.5 The new Section 160ZA (7) of the Housing Act 1996, made by the Localism Act 2011, states that a local housing authority may decide what classes of persons are, or are not, qualifying persons. The power for a housing authority to decide that an applicant is to be treated as ineligible by reason of unacceptable behaviour serious enough to make him unsuitable to be a tenant is redundant and has therefore been repealed.

10. FINANCIAL IMPLICATIONS

- 10.1 There are likely to be some additional costs for the Council due to the amount of work required as part of the implementation of the new CHAS and the reassessment of all current applications. However, the administrative burden associated with the

management of the Common Housing Register is likely to gradually reduce as the eligibility criteria is strengthened and the number of registrations reduces accordingly.

11. RISK IMPLICATIONS

- 11.1 There is a risk for the Partnership if the proposed amendments are not adopted. Both NHH and HCHA are unlikely to agree a CHAS that does not contribute to their efforts to manage their risk profile. The Partnership and single policy would likely end, which in turn could result in a fragmented service for housing applicants and confusion with two or three separate schemes and quotas of lettings for each partner. Additionally, the Stock Transfer Agreement allows NHH to decide on whether to accept applicants nominated by the Council for vacancies, so they could initiate these measures anyway as part of their own policy on lettings.

12. EQUALITIES IMPLICATIONS

- 12.1 The Equality Act 2010 came into force on the 1st October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5th April 2011. There is a General duty, described in 12.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.
- 12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give **due regard** to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.3 The Council is always mindful of equality when it reviews policy. When reviewing the provisions outlined in this report, there is very little data held by NHH, HCHA or the Council to help inform the possible implications of the proposals. National or regional data has therefore been accessed to give an indication of possible areas to monitor and these are outlined in the Equality Analysis Template, attached at Appendix B.
- 12.4 The CHAS will be monitored to ensure that no groups are unfairly disadvantaged by the operation of the scheme. If any inconsistencies are discovered, the Partnership will take steps to eliminate any disadvantage experienced by those concerned.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 As the recommendations made in this report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at paragraphs 12.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 There are no Human Resource implications arising from the report..

15. APPENDICES

- 15.1 Appendix A - Proposed Common Housing Allocation Scheme (with tracked changes).
- 15.2 Equality Analysis Template.

16. CONTACT OFFICERS

16.1 Andy Godman
Head of Housing and Public Protection
01462 474293
Andy.godman@north-herts.gov.uk

16.2 Martin Lawrence
Strategic Housing Manager
01462 474250
Martin.lawrence@north-herts.gov.uk

16.3 Reuben Ayavoo
Policy Officer
01462 474212
Reuben.ayavoo@north-herts.gov.uk

17. BACKGROUND PAPERS

17.1 Allocation of accommodation: guidance for local housing authorities in England
(<https://www.gov.uk/government/publications/allocation-of-accommodation-guidance-for-local-housing-authorities-in-england>)