

Adoption and implementation of a new lettings policy for social rented homes	
Key Decision No - FCR S002	
CABINET MEETING DATE (2020/21) 19 July 2021	CLASSIFICATION: Open If exempt, the reason will be listed in the main body of this report.
WARD(S) AFFECTED All Wards Affected	
CABINET MEMBER Philip Glanville, Mayor of Hackney Cllr Sade Etti	
KEY DECISION Yes REASON Affects two or more wards	
GROUP DIRECTOR Ian Williams, Acting Chief Executive and Section 151 Officer	

1. CABINET MEMBER'S INTRODUCTION

- 1.1. My administration is committed to Council and social housing and is doing all it can to provide social rented homes for Hackney's residents. This includes maintaining and letting our existing stock, working with the borough's Housing Associations, building new social rented homes and making the case for more genuinely affordable homes in the borough. However, we are doing all this against a backdrop of a now decade long housing crisis which impacts on our borough, our residents and wider London.
- 1.2. The 2018 manifesto included the commitment to "...manage rising demand for social rented homes in Hackney...review how we allocate these homes to ensure the system is as fair and effective as possible... ensuring those in the highest need are a priority."
- 1.3. To progress this, we have worked with officers and they have undertaken an extensive investigation into the extent and nature of current demand and anticipated levels of supply. Using this information, as well as feedback from members and stakeholders, officers have been working to fairly redesign the Council's letting policy in response to the current situation and deliver on our manifesto commitment.
- 1.4. The Council carried out an extensive public consultation on the proposed changes to the scheme to ensure that residents were able to comment on and inform the final design. The consultation ran between December 2020 and March 2021 and was carried out online using Citizen Space. The 13,400 households on the housing register were sent a postal letter inviting them to take part in the consultation. The letter also outlined how they could request a hard copy of the consultation pack. Letters were hand delivered in the Council's temporary accommodation hostels for homeless households. Additionally, a dedicated telephone number was made available for advice and discussion purposes and a number of online drop-in sessions and telephone engagement were introduced as a result of the social distancing measures in place in response to the coronavirus pandemic.
- 1.5. The ongoing work with stakeholders and the comments and feedback that the Council received from the consultation process have informed the final design of the scheme and how it is implemented. We are pleased as a response to the consultation process officers have made a number of important changes to the design of the proposed new policy, in particular strengthening the protection provided to households with children and carers looking after vulnerable children, as well as residents with medical needs. I am proud that through this work our new Lettings Policy will provide:
 - Increased priority for households where children are unable to live safely with their parents and need to come into our care, and through the new

policy we will be able to support them to live with friends or family in a connected carers arrangement,

- Additional protection for households with children living in overcrowded housing, including where they do not meet the higher threshold of being significantly overcrowded,
- Additional protection to those households where someone has a medical condition that would be alleviated by a move to alternative accommodation.

Additional support to all those currently on the Housing Register as we transition from the current scheme into the policy, including automatic transfer onto the new Housing Register for those who meet the criteria for the new policy.

- 1.6. The redesigned lettings policy is intended not only to respond to increased demand at a time of greater challenges of housing supply, but also promote a strengths based focus that supports households to resolve their housing needs through an empathic approach backed up with comprehensive advice and support, with tailored Personal Housing Plans co-produced with residents and putting their needs at the heart of our work. It is aimed to be both transparent and fair.
- 1.7. We also understand that households that do not reach the threshold of eligibility will still have real concerns about their housing that need to be addressed. We are committed to social housing but we also recognise that there will be many cases where it should be considered as part of a wider range of housing options. The scheme proposals will result in fewer people qualifying to join the Housing Register, but for those who aren't able to join the register the Council will provide tailored compassionate and sympathetic advice and assistance to help identify and pursue other housing options. Our goal remains to ensure that all residents have somewhere safe, secure and affordable to call home.
- 1.8. It is one of our ambitions that by reducing the administrative burden of managing the housing register, we free up resources that can deliver more value by assisting with alternative options and downsizing for residents. We have committed to put in place an enhanced package of support to assist the residents who no longer qualify to join the register, with joined up support from across Council services. We believe that the changes made in the new Lettings Policy will allow an additional five officers to focus on work that will add value to the lives of residents in need of housing support, increasing this vital support in spite of cuts to local government funding. This will be further enhanced with support from other Council services. We also be investing in extra support during the transition period.

- 1.9. Our borough faces an unprecedented housing crisis, with over 13,400 families on our housing register - 3,500 of whom are in temporary accommodation. We know that there are families who are in desperate need of a genuinely affordable place to call home, but Government cuts to housing benefit and continuing rising private rents leave more and more households turning to the Council for assistance.
- 1.10. There has also been a pronounced and steady increase over the last few years in the proportion of households considered to have acute housing needs. Over a third of households currently on the register have housing needs considered to be significant, as opposed to under a fifth of households five years ago, and more and more of these households are presenting with multiple and complex needs.
- 1.11. Consequently, the demand for social housing is rising. However, the Government offers very little support to local authorities to build the new generation of Council housing we so badly need and the number of social lets that are being made available are still, despite all of our efforts, low in comparison to the level of demand.
- 1.12. Even with these challenges, I'm proud that Hackney is building. Since 2011 this Council has completed more than 900 new homes, acting as our own developer, on our own land, and largely without any support from the Government. Half of these were for genuinely affordable social rent and shared ownership, paid for by selling some outright in the absence of any significant funding. But building homes is hard. It costs around £300,000 to build a new home in Hackney, and although our starting point is to build as many homes for social rent as we can, we can't build as many as we'd like to without more direct grant funding.
- 1.13. This has a consequential impact on waiting times. Even households with acute needs may be waiting many years and the reality is that the vast majority of those households that do not have acute housing needs will never be successful in achieving a social housing let, as their place on the waiting list will all too often be overtaken by a household with a greater need.
- 1.14. It is necessary to ensure that the limited supply of social housing we have available is targeted at those households with the greatest need, but it is also right that we offer those who will not meet the threshold for a social let support and guidance to source alternative options. This includes conversations on realistic expectations as well as other factors such as employment and childcare. The redesign of the lettings policy is central to driving this dialogue.
- 1.15. It is also important that the design of the lettings policy works does not diverge from the aims set out in other Council initiatives such as our local Health and Wellbeing strategy, Child Poverty and Family Wellbeing Plan, Hackney Carers Strategy, Older People's Strategy as well as the wider Corporate Plan. As referenced below we are also starting work on a new Housing Strategy which

will outline the whole Council's response to some of the wider issues around housing supply, types of tenure, affordability and the regulation of the private rented sector.

- 1.16. Managing the increasing demand for social housing and the accompanying rise in applications to the housing register is a major administrative and financial burden requiring significant resourcing. The changes to housing supply and demand that have happened since it was developed mean that administering and maintaining the housing register under our current Lettings Policy prevents our housing advice staff from providing the level of support for residents in need of housing that we want to deliver, and due to the lack of supply we are often unable to achieve positive outcomes for residents. In focusing the Housing Register on people in greatest need, and by utilising technology solutions more effectively, we aim to reallocate a significant proportion of staff time to providing high quality advice and support. The redesigned policy will allow for greater focus and interaction with those households most likely to acquire a social let and savings realised will deliver additional resources for more high value conversations on alternative housing solutions for other households.

2. GROUP DIRECTOR'S INTRODUCTION

- 2.1. The main Hackney Council Lettings Policy was last updated in July 2016. This policy is borough wide and operates in conjunction with the Council's local lettings policies for individual geographical areas of the borough and types of accommodation i.e. Regeneration schemes and Travellers sites. This document refers only to the main Lettings Policy and does not alter or replace those separate policies. Any review or changes to Local Lettings Policies will be brought forward separately and these are not affected by the proposed changes to the main Lettings Policy now or in the future.
- 2.2. A combination of increasing demand and reducing supply has meant that the current policy is no longer fit for purpose if Hackney is to meet its ambitions set in the Council's corporate plan, particularly with regard to providing a lasting solution to the housing crisis.
- 2.3. The lack of affordable accommodation in Hackney is having a profound impact on the borough and its residents. The borough has seen some of the biggest house price increases in the country, meaning that buying a home is out of reach for most low and even middle income families. We have also seen rents in the private sector rise far faster than people's incomes, and with Local Housing Allowance (LHA) having been frozen, private renting is unaffordable for many families.
- 2.4. Consequently the number of residents seeking social housing is growing rapidly, but demand far outstrips the supply available. There are currently over 13,400 households on the Housing Register, but in reality the number of households with some level of housing need in the borough is significantly

higher; for example, the 2011 census identified nearly 33% of all households in Hackney as living in overcrowded accommodation; in the last census there were 101,000 households in Hackney, meaning that potentially 33,500 households are affected.

- 2.5. Additionally, the current scheme is complex; the design was initially intended to allow for a forensic assessment of housing need based on a points scheme that placed applicants within 5 different tiers. However, the reduction in supply and the increase in the proportion of high need cases has changed the parameters and led to a number of unintended consequences.
- 2.6. With the number of available social lets in such short supply, applicants are making repeated efforts to maximise points to increase their priority, where the reality is that the impact on their priority status is at best only marginally affected. Generally, the scheme creates a false level of expectation and can lead to households excluding alternatives in the belief that they will get a social let.
- 2.7. For the Council, managing this additional workload is a significant administrative burden that causes delays, generates complaints and considerable frustration in the lettings process.
- 2.8. To address this, it is proposed that the Council adopts a much more transparent and less complex allocation policy. This policy has been designed to be more easily understood, fair, accessible and beneficial to our residents.
- 2.9. The scheme will continue to allocate properties to those with the most acute housing needs, but will also seek to drive behavioural change. We want to support residents to understand that social housing is in short supply and that for many a much more realistic option is to explore other avenues to suitable housing.
- 2.10. This paper provides details of the changes we are seeking to make to the lettings policy, and we are seeking the Cabinet's approval of these changes. If Cabinet is in agreement with the changes, it is intended that the new lettings policy takes effect from 1st October 2021 for all applicants to the Housing Register.

3. RECOMMENDATION(S)

Cabinet is recommended:

To agree to alter the Council's lettings policy in line with the recommendations contained within the report and as set out in **Appendix 1**.

4. REASONS FOR DECISION

- 4.1. Hackney Council is statutorily required to have in place a published allocation scheme as set out in Part VI of the Housing Act 1996 as amended by the Homelessness Act 2002 and the Localism Act 2011.
- 4.2. The lettings scheme is a cross cutting strategic policy that has direct links with other council priorities such as economic wellbeing and public health. The scheme should promote the best housing solutions for Hackney residents and deliver lasting outcomes to address the borough's housing crisis, tackle homelessness and contribute to building a better Hackney.

5. DETAILS OF ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 5.1. In responding to the Mayor's manifesto commitment to review and examine the manner in which the Council allocates social lets, Officers considered and rejected other alternative options:

- ***Do not amend policy:*** there is no absolute requirement to amend the lettings policy at this time and amending the policy does create work for operational staff at a time when the service is under significant pressure. However, given that there are a number of shortcomings identified in the effectiveness of the policy in meeting corporate goals, not delivering would risk the Council's reputation, not deliver value and make it virtually impossible to respond to cuts in Government funding.
- ***End the use of Choice Based Lettings and instead use direct offers for all social housing allocations made in Hackney.*** While Choice in Hackney is limited by the lack of supply and low turnover, the principle of choice is valued by residents and stakeholders. Direct offers would address the challenges of applicants not bidding and of refusals but would remove the opportunity for applicants on the housing register to bid for social lets advertised by the council that they consider desirable and suitable. It is unnecessary to end Choice Based Lettings because there are existing penalties for not bidding and for refusals which can be implemented more robustly and consistently.

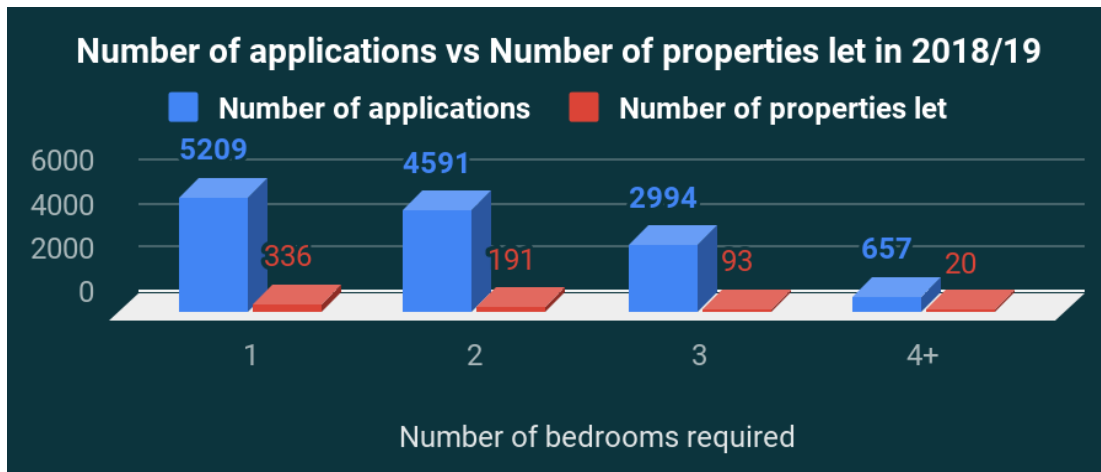
6. BACKGROUND

- 6.1. The Council's lettings policy sets out who is eligible to join the housing register to be considered for the reduced supply of social housing (Council and Housing Association stock) available in the borough. It also outlines how the Council assesses the size and type of housing required and the priority households will be awarded. The policy determines how Hackney's housing register works.

6.2. Every Local Authority is legally required under Part VI of the Housing Act 1996 to have a published Housing Allocations Scheme. In framing their allocation scheme local authorities are required to give priority (known as reasonable preference) to certain categories of people and allow applicants to exercise choice in the allocation of social housing. The Allocations Policy must also give consideration to the Equalities Act 2010 in terms of eliminating discrimination but also our duty to advance equality of opportunity.

6.3. Policy Context

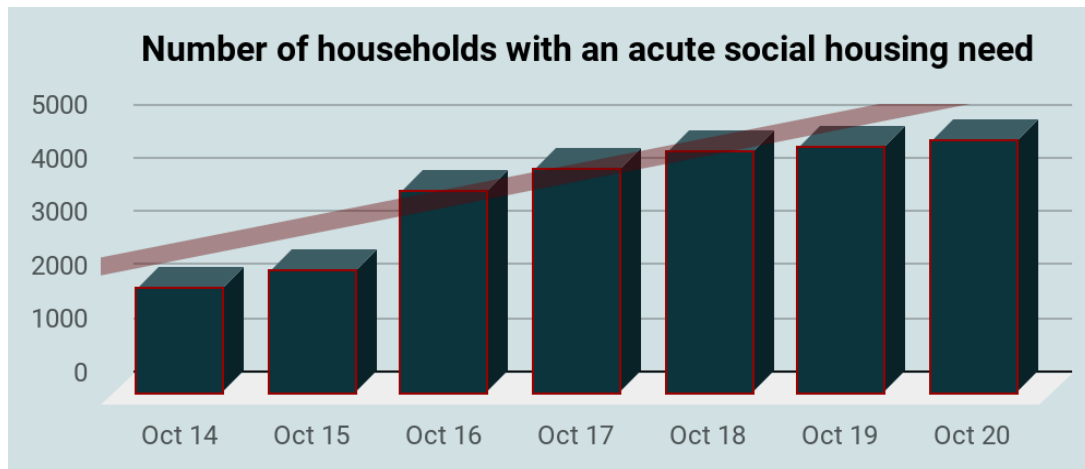
6.4. The demands placed upon social housing have fundamentally changed in recent years, and therefore a full reassessment of the policy is needed. Since Hackney’s current housing allocation scheme was introduced, there has been a significant increase in demand for social housing, while the number of properties becoming available to let has reduced. We now only allocate around 640 homes a year, but have over 13,400 applications on the register for social housing.



6.5. This has a consequential impact on waiting times. Households in the urgent band will wait an estimated seven years to be housed, while homeless households are waiting an average of four years. However, there are a number of caveats attached to this average waiting time as this will vary significantly depending on the number of households in each band and the size of accommodation required.

Estimated waiting times (July 2020)					
Number of Bedrooms required					
Band	1	2	3	4	5+
Urgent	10 mths	14 mths	1 year	7 years	32 years
Homeless/Priority	3 years	12 years	9 years	13 years	39 years
General	6 years	19 years	26 years	26 years	53 years
Reserve	15 years	24 years	30 years	28 years	54 years

6.6. Additionally the proportion of families on the register considered to be in the highest priority has increased from 18% in April 2014 to 35% in September 2020, with over 4,700 households now identified as in acute need.



6.7. This change in demand means the current allocations scheme is no longer fit for purpose. As we are unable to rehouse everyone; we now need to make sure our scheme focuses on those who need our help the most. This has been recognised by the Mayor and members and was specifically identified as a manifesto commitment; *“...manage rising demand for social rented homes in Hackney...review how we allocate these homes to ensure the system is as fair and effective as possible... ensuring those in the highest need are a priority.”*

6.8. The new scheme will give applicants a clearer, more honest and transparent view of their position on the housing register, and will be better suited to the housing crisis and the housing situation in Hackney today.

6.9. Changes to the scheme

6.10. When redesigning the lettings policy, officers have been mindful of the core service objectives. It should be:

- **Empathic** - prioritising people with the greatest need
- **Simple** - easier to understand and guiding people to the right outcome
- **Robust** - generates less confusion and misunderstanding and guards against legal challenge
- **Fairer** - provides predictable outcomes and, in light of the current crisis, is not perceived as disingenuous, which leads to false expectations
- **Clearer** - changing the conversation about what's possible

6.11. The redesign has also sought to ensure greater simplicity and clarity in the process. The current scheme is complex, designed around a points scheme

that placed applicants within 5 different tiers. By switching the emphasis away from a points system to one that focuses on the household needs and the likelihood of that need being met through a social housing offer, we are seeking to redefine the conversation.

- 6.12. The focus is on those in greatest need and redirecting those with a lower need that unfortunately are never likely to achieve a social tenancy to alternative support to source other housing solutions. It is proposed that only those residents that have the highest level of need will qualify to join the register. These are identified as:

Households with an emergency need - where a property has become uninhabitable because of a fire or flood and alternative interim accommodation is not available, or where familial connected carers are permanently looking after children unable to live safely with their parents and urgently require access to suitable accommodation to meet their expanded needs. These cases will be resolved by a direct offer of accommodation.

Statutorily overcrowded households - those who lack 2 or more rooms. Overcrowding is normally based on the number of rooms you have relative to the size and needs of your household. When identifying rooms that can be used as a bedroom, we will include all the rooms that could be used for this purpose, for example a dining room. All households consisting of more than 1 adult are considered entitled to access to a separate living room from their bedroom, although this room may be shared with non-household members - we will not count this room when assessing overcrowding.

Significant medical need - where the applicant or someone in their household is housebound within it or there is a pronounced impact on the wellbeing of the applicant or someone in their household.

Significant social need - this would apply where there is a threat to the life of an applicant or someone in their household and there is no alternative effective remedy other than moving from the accommodation.

Applicants with specific property requirements - In this case their housing options will be restricted to properties that meet their needs, i.e. older people's housing.

Applicants with children who are overcrowded by one room - it is recognised that the current housing register includes applications from a number of households with children who face particular difficulties in securing suitable accommodation in the current market; those in one bedroom accommodation and those with children approaching an age where they will be entitled to separate bedrooms. While these households are not statutorily overcrowded, transitional protection will be provided and they will be included on the new register.

- 6.13. Social households looking to downsize will also be eligible to join the register through the Council's Under Occupation Incentive Scheme, as we seek to increase the availability of family sized accommodation.
- 6.14. We also recognise that we have a responsibility to looked-after children who are leaving Council care and have retained the 'quota' provision we currently make for young people leaving care. The Leaving Care Team and the Benefits and Housing Needs Service continue to work together to expand the options available. No changes have been made to the criteria for those impacted by domestic abuse and they remain a priority.
- 6.15. To facilitate this it is proposed that the Council adopts a four band scheme:

Band A - Only households with a housing need that requires an emergency direct offer and/or are connected carers;

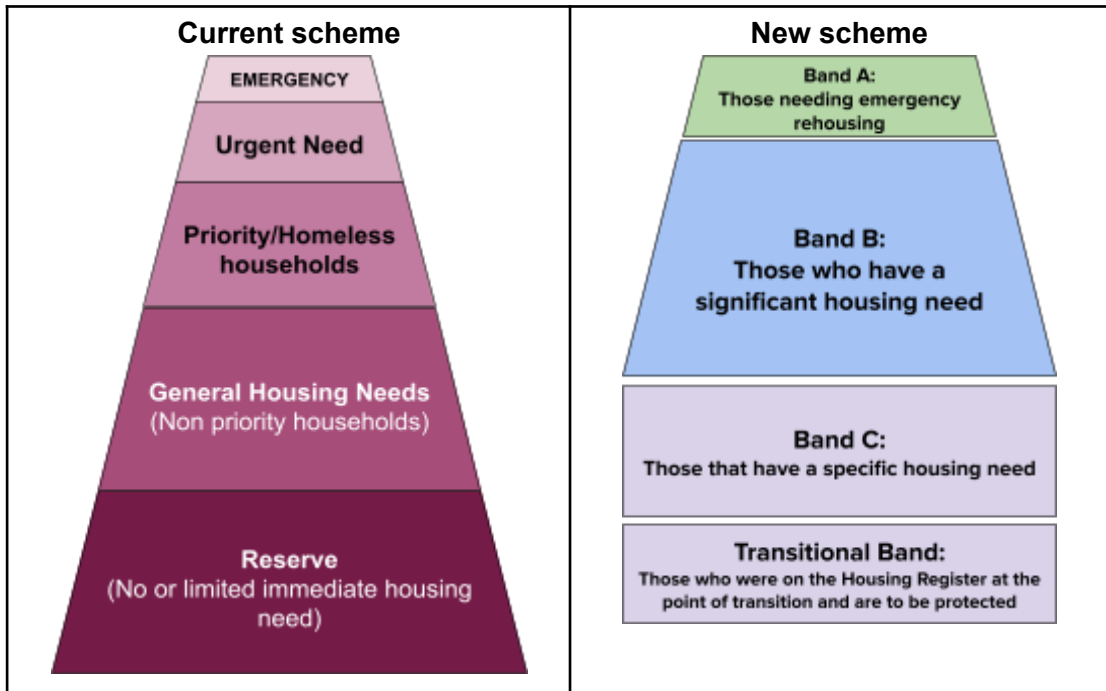
Band B - Restricted to households with a significant need;

Band C - Other households meeting specific conditions and who are to be restricted in the type of accommodation they can apply for - sheltered or older persons accommodation for example, and households that have a housing need linked to their medical needs, but the extent to which the impact on the health of the applicant's household does not meet the higher thresholds.

We also accept that there will be households currently on the Housing Register that are overcrowded but not to the extent that they meet the threshold to join Band B, particularly those households on the housing register (or would have applied prior to the implementation of the new policy) that live in one-bedroomed accommodation and have resident child(ren). Recognising that they face more acute difficulties in sourcing suitable accommodation it is important that we continue to provide a place on the Housing Register.

Transitional Band - Additionally, there are households currently on the Housing Register that include children and they are living in accommodation with two or more bedrooms, but are still overcrowded by one bedroom. Where these children are approaching an age where they will require a bedroom of their own (within two years), they will at that stage most likely meet the definition of statutory overcrowding (and consequently switch into Band B). It is intended that these households remain on the housing register within the Transitional Band.

It is important to stress that this will only be for households that are on or applied to join the register at the point of transition, and will not apply to applicants after the transition date.



- 6.16. Most applications will be in Band B - which will operate as a waiting list with the length individuals have been on the register determining their priority for housing.
- 6.17. Taking the three criteria of statutory overcrowding, significant medical need and significant social need, these align with the existing Lettings Policy as follows:

Existing policy	New Policy
<p>There are two levels of overcrowding priority within the Lettings Policy:</p> <ul style="list-style-type: none"> • “A” Overcrowding priority which will attract 100 points and places you in the Urgent Band, and • “B” Overcrowding priority which will attract 10 points and place 	<p>Statutorily overcrowded households - Those who lack 2 or more rooms.</p> <p>Connected Carers - needing additional rooms where children are unable to live safely with their parents and need to come into our care and we are supporting them to live with friends or family in a</p>

<p>you in the General Band.</p> <p>You will qualify for an “A” priority for overcrowding if you and your household are living in accommodation that has two or more bedrooms fewer than you need.</p> <p>If your accommodation is only one bedroom smaller than that which you need then you will be awarded a “B” priority for overcrowding.</p>	<p>connected carers arrangement.</p> <p>Households currently on the housing register, include one or more children and are living in single bedroomed accommodation.</p> <p>Households currently on the housing register, include two or more children where one or more of the children are approaching an age where they will qualify for a separate bedroom and are living in accommodation with two or more bedrooms.</p>
<p>There are two levels of medical priority within the Lettings Policy:</p> <ul style="list-style-type: none"> ● “A” medical priority which will attract 100 points and places you in the Urgent Band, and ● “B” medical priority which will attract 10 points and place you in the General Band. <p>You will qualify for an “A” medical priority in only the most urgent cases: where you or someone in your household is</p> <p>at risk due to the inadequacy of the home, or is housebound within it and would otherwise be unable to go out or be taken out.</p> <p>You will qualify for a “B” medical priority if the need is urgent but the current accommodation is not a threat to significantly exacerbating the condition, and a change of housing would make a substantial improvement in the quality of life of the affected person.</p>	<p>Significant medical need - Where accommodation is unsuitable because a member of the household has a severe and enduring medical condition.</p> <p>Households that include someone with a medical condition that would be alleviated by a move to alternative accommodation, the need is urgent but the accommodation is not a threat to significantly exacerbating the condition, and a change of housing would make a substantial improvement in the quality of life of the affected person.</p>

<p>There are two levels of social priority within the Lettings Policy:</p> <ul style="list-style-type: none"> ● “A” social priority which will attract 100 points and places you in the Urgent Band, and ● “B” social priority which will attract 10 points and place you in the General Band. <p>You will qualify for an “A” social priority where there is a threat to the life of you or someone in your household and there is no alternative effective remedy other than moving you from the accommodation. Such moves will generally happen within the borough. If this will not remove or substantially reduce the threat, and no suitable out of borough properties are likely to become available, then you will be given advice and assistance in approaching another authority and no social award will be made.</p> <p>Circumstances where the highest social priority may be considered include:</p> <ul style="list-style-type: none"> ● Violent incidents where there is reason to believe the incident might be repeated e.g. rape or harassment as a result ● of race, ethnicity, sexuality or disability ● Sexual abuse of or attacks on children and moving would end the danger ● Witnesses or potential witnesses where actual violence or threats of actual violence have been made. ● Domestic violence where 	<p>Significant social need - this would apply where there is a threat to the life of you or someone in your household and there is no alternative effective remedy other than moving you from the accommodation.</p> <p>The types of circumstances that may fall within this category include:</p> <ul style="list-style-type: none"> ● Violent incidents where there is reason to believe the incident might be repeated e.g. rape, violence or harassment as a result of race, ethnicity, sexuality or disability, ● Gang violence where moving would end or minimize the danger, ● Sexual abuse of or attacks on children and moving would end the danger, ● Witnesses or potential witnesses where actual violence or threats of actual violence have been made supported by Police intelligence, ● Domestic violence where moving would end or minimize the danger.
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<p>moving would end or minimize the danger</p> <ul style="list-style-type: none"> ● In cases of criminal activity where there have been associated threats and violence particularly where “innocent” parties are at risk. ● At the recommendation of the police, to help to provide witness protection <p>You will qualify for a “B” social priority in circumstances where there has been:</p> <ol style="list-style-type: none"> 1. Harassment over a long period but it is not life threatening 2. There has been a one off serious violent incident which is unlikely to be repeated but is still causing demonstrable stress and anxiety. 	
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- 6.18. In recognition of the importance of this area of work the Council now has invested in a permanent dedicated medical team to lead decision making on medical assessments. The medical practitioners will work with colleagues across the Council and external organisations to deliver best practice and share learning.
- 6.19. We have made the medical team a permanent function within the Benefits and Housing Needs Service; it consists of a senior medical advisor, medical advisor, officer and admin support. In some instances, the solution to the housing need can be met through adaptation and additional facilities being put in place through Adult Social Care, the team is able to access this support. Additionally the team links in with the Public Sector Housing team who deliver the disabled facilities grant. Where appropriate we will use qualified GP's to make a professional recommendation based on the medical information provided by the applicant.
- 6.20. With regard to identifying a medical priority, officers will always take an evidence based approach and seek the input from qualified medical practitioners such as the General Practitioners as well as the occupational therapists employed directly by the Council. In addition, Officers work with colleagues in the Council's multi-disciplinary teams to try to ensure that a complete understanding of the household circumstances is taken into account. Officers of the council will make a final decision on medical priority.

- 6.21. When making a decision on an application the Medical Team will have taken into account the input they have received as well as input and information supplied by other resources and organisations such as Hackney Ark.
- 6.22. One of the aspects of the current policy it is important to stress, is that the existence of a medical condition is not in itself enough to qualify for a medical priority; the key issue is whether the current accommodation is significantly amplifying the impact of the condition. An example of this would be a household with members on the autistic spectrum; there will be different needs and risks related to the property and the severity of the condition, and the assessment will take into account the potentiality for increased harm. Therefore it is not the diagnosis of autism alone that would result in medical priority, but how this interacts with the current housing and the risk this poses to the individual/household.
- 6.23. As part of the assessment process for applications to the Housing Register, officers will undertake a risk assessment of the current property when practicable. This will examine the level of risk associated with the property as it relates to the medical needs and whether these risks can be significantly reduced by other measures.
- 6.24. We recognise that there are some households who are currently in the General and Reserve bands who, based on their current circumstances, will no longer qualify for the register. In responding to the consultation and elected Member feedback we have worked hard to identify protections that can be made for people in these bands whose needs are greatest - including lower levels of medical need and families who are one-bedroom overcrowded.
- 6.25. An ambition of the redesigned policy is that it will promote a more personal conversation on housing options and alternative solutions where residents are advised openly about the support that is available to them beyond a move into a social let, such as disablement support and adaptations, employment, debt and budgeting advice; building on what residents can achieve not what they can't.
- 6.26. It is important to note that average waiting times overall for most of those on the register are unlikely to change significantly; the paucity of social housing being made available is the key driver for waiting times for those who remain/are able to join the Housing Register.
- 6.27. Implementation and transitional support**
- 6.28. The scheme proposals will result in fewer people who qualify to join the housing register, but for those who aren't able to join, tailored advice and assistance will be available to help identify and pursue other options. It is one of our ambitions that by reducing the administrative burden of managing the

register we free up resources that can be used to better support residents and promote alternative options and downsizing.

- 6.29. The Benefits and Housing Needs Service, in conjunction with Hackney Housing's Tenancy & Leasehold Services are already working on developing the functionality of the software systems, and building a new housing register system including application form. The system will maintain an accurate register of applicants and supporting evidence, enabling the service to provide social housing to those that meet the Lettings Policy criteria.
- 6.30. The Benefits and Housing Needs service will be dividing residents into cohorts based on their current circumstances and delivering different approved communications messages and letters to explain the next steps with applications and the support that will be provided for them. This work is in the early stages and templates are being developed.
- 6.31. A transitional team will be created and consist of a mixture of officers from both Benefits and Housing Needs Service and Housing Neighbourhood Teams who will deliver tailored and personalised housing advice and support to pursue housing solutions.
- 6.32. Existing social housing tenants who require a move who do not meet the criteria for the housing register will be supported through an enhanced mutual exchange process with officer support. The Council's housing strategy team are also working with registered housing providers to grow and augment the potential for mutual exchange options.
- 6.33. Those tenants in a property larger than their need will have dedicated resources to help in downsizing with a renewed focus on this activity as a priority. By joining the Under Occupation Incentive Scheme they will be included on the housing register and able to bid while also receiving assistance and advice from the Downsizing And Rehousing Team.
- 6.34. As a significant proportion of those who do not meet the new thresholds will be social tenants seeking a transfer, we are intending to host regular borough wide mutual exchange fairs, where social housing providers and their tenants can interact to source suitable properties. Housing Associations have agreed to work with the Council on these events. The first event is expected to take place prior to Christmas with a second one scheduled for the Spring.
- 6.35. The responses received to the consultation have clearly indicated that how we communicate the new policy and approach to residents is vital. The changes to the Housing Register and the Lettings Policy are a response to the wider London Housing Crisis. A communication strategy will be put in place to explain not only the operational parameters of the new policy but the reasoning behind the changes; not least of which is a need to be candid about the likelihood of achieving a social let. Residents within the consultation responses have raised concerns and issues which extend beyond the

management of current social letting resources into areas around housing supply and affordability, and while these are very important issues they are outside the scope of this change in policy, but the Council will continue to advocate for and deliver more social and council housing in the borough. The whole Council has also started the early work to develop a new Housing Strategy which will seek to address these wider issues.

6.36. The implementation of the new policy will also require the support and buy-in from related council departments, not least of which will be Adult Social Care and Children and Young People services, to ensure consistent and accurate information is disseminated and a deepening of cross council working to support the most in need. We are investigating how this can be best achieved, including workshops, drop-in sessions and advice clinics for social workers and support staff.

6.37. Impact on those residents currently on the register

6.38. We anticipate that around 5,500 households will be directly impacted, based on the number of households currently within the General and Reserve Bands, who will be almost universally affected to some extent. Of the 5,500 approximately 2,900 have no recorded housing need. Affected households will be contacted directly in advance of the implementation date and will receive tailored advice and support according to their circumstances.

6.39. Some households currently on the housing register and who will qualify under the new parameters may see a shift in their position on the register as a consequence of the merging of the bands. For example, those in the urgent band may fall behind a homeless household by dint of the homeless household having been on the register longer. Those in the urgent band will experience a longer estimated wait time (this will be minimal for those with earlier band dates but will be more significant for more recent applicants, because they fall behind earlier homeless cases). This will be balanced by those in the homeless band who will rise above those with later band dates in the urgent band.

6.40. Analysis of the current housing register data has identified around 1,380 households that will have a negative change in their bidding position under the new criteria, with around 70% of these affected households currently within the urgent band. However, this volume is likely to reduce once those who have had a change of circumstance which renders them no longer in housing need or have moved out of the borough. It should be noted that bidding behaviours and preferences have as great an impact on an applicant's likelihood of success as their priority.

6.41. To mitigate this we intend to continue to work with households to deliver sustainable accommodation:

- For homeless households, there will be support to access accommodation in the privately rented sector through options such as the Capital Letters

scheme, help with self sourcing, Discretionary Housing Payments for rent in advance and deposits allowing us to discharge our duty under the Housing Act;

- For those currently accommodated within the privately rented sector, we will provide additional advice and support for either securing alternative accommodation or to make their existing accommodation suitable for their needs. For example working with Adult Social Care to make recommendations for minor adaptations.

6.42. Equality Impact Assessment

6.43. When making policy decisions, the Council must take account of the public sector equality duty (Section 149 of the Equality Act 2010) and in particular any potential impact on protected groups.

6.44. The redesign of the Lettings Policy is intended to offer a more equitable, customer-focused and transparent system for all applicants. Although the recommendations will not deliver any increase in housing supply in the borough, they will enable this scarce resource to be managed more effectively, strategically, and allocated to those local residents with the highest priority.

6.45. The changes to the policy are predicted to have a neutral equalities impact. The difficulties faced by some client cohorts in accessing social housing will not be worsened as a consequence of changing the lettings policy as outlined, as these issues are driven by the lack of supply rather than how properties are allocated. Those who will drop off the Register (or will no longer be able to access the Register) are already extremely unlikely to be rehoused under the current scheme.

6.46. This applies to those households that fall within the defined protected groups. The level of data held on residents with protected characteristics in relation to the Housing Register is limited and our access to the data we do hold has been hampered by the recent cyberattack.

6.47. A full EIA has been undertaken and has been attached at **Appendix 2**.

6.48. Sustainability

6.49. There is no impact on the physical and social environment as a consequence of this proposal.

6.50. Consultations

6.51. Under section 167(7) of the Housing Act 1996 a local housing authority is required to consult with every private registered provider of social housing and

registered social landlord with which they have nomination arrangements, and afford those persons a reasonable opportunity to comment on the proposals.

- 6.52. A formal consultation exercise was undertaken between December 2020 and March 2021. All our local RPs were contacted and invited to comment on the proposals through the consultation process.
- 6.53. The consultation was carried out online using Citizen Space. The 13,400 households on the housing register were sent a postal letter inviting them to take part in the consultation. The letter also outlined how they could request a hard copy of the consultation pack. Letters were hand delivered in the Council's temporary accommodation hostels for homeless households.
- 6.54. In addition a dedicated telephone number was made available for advice and discussion purposes and online drop-in sessions and telephone engagement were introduced as a result of the social distancing measures in place in response to the coronavirus pandemic.
- 6.55. A total of 387 respondents took part in this consultation. A summary of some of the response is set out below:
- The majority of respondents, at just over two thirds, stated that they “agree” that social housing should be allocated to those most in need.
 - The majority of respondents, at just under two thirds, stated that they “agree” that the current system needs to change.
 - There was a mixed response to the proposal to reduce the number of bands from 5 to 3.
 - The majority of respondents stated that they “agree” that the new register should include those with the greatest level of need.
 - There was a mixed response to the proposal to reduce the number of times that a non-homeless household can refuse an offer from three to two.
- 6.56. A more comprehensive consultation report has been attached as **Appendix 3**.
- 6.57. In addition to public consultation, we have undertaken extensive engagement with elected Members to gather their views and input. The questions they raised and the responses have been collated and attached separately at **Appendix 4**.

6.58. Risk Assessment

- 6.59. There are some potential risks associated with changing the current policy, but there are greater risks if we do nothing. The current policy is not achieving the intended aims of ensuring that social housing is allocated to those most in need while those who are unlikely to achieve social housing are supported in resolving their housing needs.

- 6.60. There is a risk of the policy being subjected to a legal challenge. To minimise this the policy has been reviewed by Council's Legal and Governance Services and their comments are included in this report. We have also undertaken a full consultation process which is also included within this report.
- 6.61. The implementation of the policy may engender some short term disruption and confusion during the transition period, but it is intended that additional resources will be provided to help mitigate and speed up this process. We are also looking to provide a comprehensive communications plan to ensure that Hackney residents are made fully aware of the change in policy. The new policy will help ensure that the Council's housing stock is allocated effectively and to meet the greatest need while also delivering a reduction in the cost of managing the allocations process.

7. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

- 7.1. This report requests approval to alter the council's current lettings policy as outlined in Appendix A.
- 7.2. The council's housing register contains over 13,400 households, many of whom are unlikely to ever be offered a social housing let as demand hugely outstrips supply and offers can only be made to those in the greatest need. The cost of administering the current register is estimated to be around £650k in staff time.
- 7.3. Redirecting those households which are not in the greatest need to take advice on other options for sourcing housing will require an additional resource to provide the advice needed on alternatives. Funding of £200k is estimated to be required for this in the transition period.
- 7.4. Longer term, it is expected that the policy will result in a reduction of costs in administering the housing register by at least 50% (£325k) and although there will be an increase in the cost of providing advice, this should not result in an overall net increase in resource.

8. VAT Implications on Land & Property Transactions

- 8.1. There are no VAT implications associated with this policy change.

9. COMMENTS OF THE DIRECTOR, LEGAL & GOVERNANCE SERVICES

- 9.1. The statutory basis for the allocation of housing accommodation by local authorities is set out in Housing Act 1996 Part VI.

- 9.2. In exercising its functions under Part VI, the Council must have regard to guidance issued by the Secretary of State. The government issued statutory guidance to local authorities on the allocation of accommodation in June 2012. The government issued additional statutory guidance in December 2013 titled "Providing Social Housing for Local People" ("the 2013 guidance") which relates to the operation of residency requirements and is discussed further below. Further guidance was issued in March 2015 relating to the "Right to Move" ("the 2015 guidance") and this is discussed further below.
- 9.3. A local authority allocates housing accommodation when (a) it selects a person to be a secure or introductory tenant of property from its own stock or (b) it nominates a person to be a secure or introductory tenant of accommodation held by another body or (c) it nominates a person to be an assured tenant of accommodation held by a Private Registered Provider of Social Housing. (PRP).
- 9.4. The provisions of Part VI do not apply to transfers apart from tenant-initiated transfers by persons owed a reasonable preference (as to which see 6.22 above).
- 9.5. A local authority must have an allocations scheme and can only allocate housing accommodation in accordance with its allocation scheme.
- 9.6. An allocation scheme must include a statement as to the housing authority's policy on offering people a choice of accommodation or the opportunity to express preferences about the accommodation to be allocated to them. It is for housing authorities to determine their policy on providing choice or the ability to express preferences
- 9.7. A local authority cannot allocate housing accommodation to those whose immigration status renders them ineligible. The rules on eligibility are too complex to be summarised here.
- 9.8. A local authority may decide what classes of persons are or are not qualifying persons, subject to the rules on eligibility referred to in 12.7 above and to any regulations made by the Secretary of State (Housing Act 1996, Part 6 s.160ZA (7)). It is open to local authorities to include a residence requirement as part of its qualification criteria. Indeed this is strongly encouraged by the Secretary of State in the December 2013 guidance where it is stated (at paragraph 14) that the Secretary of State believes that a reasonable period of residence would be at least two years. The Lettings Policy provides for a three year period.
- 9.9. Regulations made by the Secretary of State in 2012 provide that local authorities must make an exception to its residence requirement for certain members of the armed forces and this is reflected in the list of exceptions set out within the Lettings Policy.
- 9.10. Regulations made by the Secretary of State in 2015 provide that local

authorities may not disqualify on grounds of residence (or other local connection) existing tenants seeking to transfer from another local authority district who have reasonable preference because of a need to move to the local authority's district to avoid hardship and need to move because the tenant works in the district or need to move to take up an offer of work. This is known as the "Right to Move". The Regulations provide that the local authority must be satisfied that the tenant has a genuine intention of taking up the offer of work. The provisions do not apply if the work is short-term or marginal in nature, ancillary to work in another district or voluntary work; guidance on these matters is given in the March 2015 guidance on the Right to Move. The March 2015 guidance states that the Secretary of State strongly encourages local authorities to set aside a quota of at least 1% of their properties for allocation under the Right to Move.

9.11. It is important to emphasise that, although the legislation permits local authorities to set their own qualification criteria subject to the eligibility provisions in the legislation and to any regulations made by the Secretary of State, case law has established that the qualification criteria cannot be framed in such a way as to exclude from qualification a class of persons to whom a reasonable preference must be given: *R (Jakimavicuite) v Hammersmith and Fulham LBC [2014]*. In that case the local authority's scheme provided that homeless applicants placed in long term temporary accommodation under the main homelessness duty (Housing Act 1996 s193(2)) would normally not qualify for inclusion on the housing register. This was declared to be unlawful by the Court of Appeal as it had the effect of excluding a sub-class of persons owed the main homelessness duty and to whom the local authority had to accord a reasonable preference under Housing Act 1996 s166A(3). In *R (HA) v Ealing London Borough Council [2015]* a woman had moved to Ealing to escape domestic violence. It was accepted that she was owed the main homelessness duty. Ealing's allocation scheme required applicants to have lived in the borough for five years to qualify for the housing register, save in exceptional circumstances, which were not specified. The applicant did not meet the residence requirement and was excluded from the register. The High Court held that, although a residence requirement was an appropriate provision for admission onto a social housing waiting list, it could not operate to exclude the class of people (which included the applicant) who fulfilled the reasonable preference criteria. The exceptional circumstances provision could not save the scheme which was declared to be unlawful.

9.12. The allocation scheme must be framed so as to secure that a reasonable preference is given to:

- People who are homeless (within the meaning of Part 7 of the Housing Act 1996),
- People who are owed a duty by any local housing authority under section 190(2), 193(2) or 195(2) (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any such authority under section 192(3),

- People occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions,
 - People who need to move on medical or welfare grounds (including any grounds relating to a disability); and,
 - People who need to move to a particular locality in the district of the authority, where failure to meet that need would cause hardship (to themselves or others).
- 9.13. The scheme may be framed so as to give additional preference to particular applicants within the reasonable preference categories. Additional preference must be given to certain members of the armed forces.
- 9.14. The House of Lords, in a 2009 case, *R (Ahmad) v Newham LBC* made it clear that the persons in the reasonable preference categories are entitled to just that – a reasonable preference – and not absolute priority over everyone else. So an allocation scheme may provide for other factors to be taken into account in determining who gets a preference as long as these factors do not dominate the scheme and overall it operates to give reasonable preference to those within the categories. The 2012 guidance states that the Secretary of State would encourage local authorities to take advantage of this flexibility to meet local needs and priorities.
- 9.15. An allocations scheme may make specific provision about the allocation of particular housing accommodation to people of a particular description (whether or not they are within the reasonable preference categories, provided that the scheme overall operates to accord a reasonable preference to those within the categories): an example of this in the Lettings Policy is the provision made for travellers.
- 9.16. The allocation scheme must be published and when an alteration is made to the scheme reflecting a major change of policy the Council must take reasonable steps to bring the effect of the alteration to the attention of those likely to be affected by it.
- 9.17. Before making an alteration to the allocations scheme reflecting a major change of policy a local authority must send a copy of the draft scheme or proposed alteration to every private registered provider of social housing with which they have nomination arrangements and afford them a reasonable opportunity to comment on the proposals.

APPENDICES

Appendix 1 - The proposed new Lettings Policy document

Appendix 2 - Equalities Impact Assessment

Appendix 3 - Consultation Report

Appendix 4 - Members Q&A

BACKGROUND PAPERS

In accordance with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012 publication of Background Papers used in the preparation of reports is required

None

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