

MAIDSTONE BOROUGH COUNCIL
RECORD OF DECISION OF THE CABINET MEMBER FOR
REGENERATION

Decision Made: 08 October 2009

'Fair & Flexible' Consultation

Issue for Decision

To consider approving the response to the Communities and Local Government's consultation document on a new code of guidance for the allocation of social housing entitled 'Fair and Flexible'.

Decision Made

That the response to the consultation document contained in Appendix A to the Report of the Director for Prosperity and Regeneration be approved.

Reasons for Decision

The consultation document covers a number of themes under various headings: these include

- Objectives and outcomes which allocation schemes must achieve
- Objectives and outcomes the government believes should be achieved
- Involving and consulting local communities in the development of the allocation scheme
- Framing an allocation scheme
- Partnership working with RSLs

The consultation deadline is 23 October 2009 and it is anticipated that the new guidance will be issued this calendar year.

Outcomes that must be achieved:

The guidance perpetuates the previous theme that social housing should be allocated to those who will be *likely to have most difficulty finding for themselves in the private market*. There are no plans to amend the current reasonable preference groups, however, the proposed code will now say that equal weight to each preference category is no longer a statutory requirement and this can be determined by the housing authority to reflect local housing need. Emphasis is placed on using the allocation scheme to prevent homelessness, which Maidstone has successfully employed over the past three years.

Outcomes the government believes should be achieved:

These can be summarised as follows

- Greater choice and wider options for prospective tenants

- This would include a range of housing such as rented, shared ownership and private rented
- Greater mobility
 - Assisting social housing tenants to move within the sector to promote social and economic mobility
- Making better use of housing stock
 - Such as giving greater priority to tenants under occupying homes to downsize
- Policies which are fair and considered to be fair
 - To tackle perceptions that the current system favours certain groups e.g. the unemployed or migrants
- Support for people in work or seeking work
 - To support those who are in work or seeking work; or to access training that will lead to employment

Involving, consulting and raising awareness with local communities:
The proposed code encourages local housing authorities to involve their communities in the development of their allocation scheme in an attempt to overcome the myths and false perceptions engendered by long waiting times, complex schemes and poorly supported or trained frontline officers. Housing authorities are encouraged to do more to help local people understand how social housing is allocated.

The proposed code goes on to extol the benefits of involving local people to contribute to local policies that reflect local pressures; promotes a greater sense of fairness in how homes are allocated; and provides for stronger community cohesion. Citizen panels, voluntary and community organisations are all cited as ways in which consultation can be achieved.

Equal importance is given to providing information and feedback to applicants on the availability of social housing and the outcome of allocations.

Framing an allocation scheme:

The House of Lords judgement in the case of *R (Ahmad) v London Borough of Newham* was of such significance that the Communities & Local Government office has deemed it necessary to amend their codes of guidance on the allocation of social including the code recently issued in November 2008. The judgement overturned a raft of previous decisions concerning how local authorities framed their allocation schemes, which sets out the local housing authorities' policy for determining priority between applicants.

This issue was most significant with the move towards choice based lettings systems, as a number of authorities adopted simplified bands to determine priority groups for housing as opposed to the traditional points based systems, as used in Maidstone Borough Council. A number of the simplified banding schemes fell foul to legal challenges as it was supposed that these simple schemes could not reflect the cumulative needs expressed by the range of 'preference categories' in the housing legislation.

The Ahmad case decided that there was no requirement in law to cumulate need across the preference categories and went further to say that it was quite proper for local authorities to take account of local housing need; such as the need to have a percentage of voids available for transferring applicants because of overcrowding, or to give weight to factors such as time on the list. The judgement concluded that it could be an advantage to adopt a simple allocation scheme as this would help applicants in terms of transparency and being able to understand the allocation scheme.

The consultation therefore proposes a number of amendments to the previous codes, which attempted to square the circle under the previous statutory framework and government's ambitions to implement choice based lettings across England by 2010. In the main these are:

- The removal of the requirement for cumulative preference
 - This is useful if using simple banding schemes, Maidstone currently has points based system
- Determining priority between households with a similar level of need
 - Will enable local prioritisation
- Local connection
 - Maidstone's policy currently awards additional priority for applicants with a local connection
- Waiting time
 - Currently given but can now be increased in value
- Banding scheme
 - Simple schemes can now be used with confidence that they are legally compliant
- Determining local priorities alongside reasonable preference
- Existing tenants seeking a move
 - Transfer tenants are assisted within our policy
- Quotas, targets and lettings plans
- Local lettings policies
 - Maidstone currently uses the Kent Housing Group's sustainable communities protocol to allocate new developments

Partnership working with RSLs:

The comments and concepts within this section of the document are not new to Maidstone. Having transferred its housing stock in 2004 the council has a range of partnership agreement and nomination arrangements with its housing partners in order to meet housing need in Maidstone. To enable choice based lettings to operate in Maidstone a shared allocation scheme was agreed with our RSL partners and all those seeking social housing, including transfer applicants, in Maidstone register via the Council's housing list.

There is no immediate requirement to alter Maidstone Council's allocation scheme in light of the proposed changes but the Ahmad ruling removes the concerns that your officers had with regard to moving from a points based system to a simplistic band system. This situation also provides an opportunity to develop a cross authority allocation scheme with our neighbouring Kent authorities and members of the Kent Choice Based Lettings Partnership. However, such a change would have significant

financial implications and it is proposed not to make further recommendations in this respect until the final code of guidance is issued.

Alternatives considered and why rejected

The Council could choose not to respond to the consultation document but to do so would miss an opportunity to influence an important code of guidance that will impact on how Maidstone awards priority between applicants for social housing.

Background Papers

1.8.1 Fair and Flexible Draft statutory guidance on social housing allocations for local authorities in England – CLG
Code of Guidance on Allocations 2002 – CLG
Code of Guidance on Choice Based Lettings 2008 - CLG
Housing Strategy 2005 - MBC
Homelessness Strategy 2008 - MBC

Should you be concerned about this decision and wish to call it in, please submit a call in form signed by any two Non-Executive Members to the Scrutiny Manager by: xxxxxxxxxx.
--