

# Crawley Borough Council

**Report to Overview and Scrutiny Commission  
8<sup>th</sup> September 2014**

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**Report to Cabinet  
10<sup>th</sup> September 2014**

## **Amendment to the Housing Allocations Scheme – Local Connection and Residency Criteria**

Report of the Head of Strategic Housing and Planning Services **SHAP/40**

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### **1. Purpose**

- 1.1 Cabinet is asked to decide whether to amend the residency qualification criteria in the Council's Housing Allocation Scheme from 3 years to 5 years.

### **2. Recommendations**

- 2.1 To the Overview and Scrutiny Commission: That the Commission consider the report and decide what comments, if any, it wished to submit to Cabinet.
- 2.2 To the Cabinet: Consider and note the contents of this report, and request that Full Council:
- (1) Note the results of the consultation process undertaken in respect of the proposed change.
  - (2) Decide whether to amend the Council's Housing Allocation Scheme as set out in section 5.12 of this report; and
  - (3) If the decision of the Council is to amend the Council's Housing Allocations Scheme, to specify the date the change is to take effect, such date to be on 3<sup>rd</sup> December 2014 or such subsequent date as may be agreed by the Head of Strategic Housing and Planning Services in consultation with the Cabinet Member for Housing.

### **3. Reasons for the Recommendations**

- 3.1 A number of Members have expressed an interest as to whether the Council should consider increasing the local connection and residency qualification criteria for people who wish to be allocated social rented accommodation. This report provides an opportunity for Members to review the current criteria and decide whether to amend it.

### **4. Background**

- 4.1 The Housing Act 1996 (Part 6) requires all local authorities to have a published allocation scheme for determining priorities and for defining the procedures to be followed in allocating social housing accommodation.

4.2 A review of the Housing Allocation Scheme was conducted in 2013 and in its meeting on 23 October 2013 Full Council approved a revised Allocations Scheme. As part of the revised Scheme, the qualifying criteria (the criteria which must be met by an applicant to be able to join the Housing Register and to be considered for an allocation of Social Housing) was amended to take advantage of the flexibilities provided by the amendments to the legislation brought in by the Localism Act 2011. The revised Scheme took effect on 16 December 2013.

4.3 Since 16 December 2013, section 2.4.2.1 of the Allocation Scheme sets out the qualification criteria which relates to local connection and residency. The current wording of this section is as follows:

***“2.4.2.1 Qualification – local connection and residency***

*Applicants\* who fulfil any of the following categories will be assessed as meeting the local connection and residency criteria and will qualify for an allocation.*

- *Applicants who have lived continuously (without a break) in the Borough of Crawley for 3 years immediately prior to the date of the housing register application.*

*NB. Applicants who move away from the Borough of Crawley after joining the Housing Register will no longer meet this criteria and will not qualify and their application will be removed from the housing register. Applicants in this situation will again qualify once they have returned and continuously lived in the Borough of Crawley for 3 years starting on the date of their return.*

- *Applicants with an immediate family member (mother, father, brother, sister, son, daughter) who are currently living in Crawley and has done so continuously for at least five years or more.*
- *Applications who have held permanent paid employment in Crawley for the last 5 years.*

*\*The above qualifying criteria does not apply to:*

- *an applicant who is a “relevant person” within the meaning of the Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012 (SI 2012/1869).*
- *an applicant to whom Crawley Borough Council have accepted the main housing duty (under section 193 of the Housing Act 1996) and who has been placed in temporary accommodation*

*We will check all of the above when a person first applies and when an applicant is offered accommodation. Applicants will be required to evidence that they meet the local connection and residency qualifying criteria.*

*If an applicant cannot prove they meet the local connection and residency qualifying criteria they will be a non qualifying person and their application will be rejected, or if they are already on the housing register, their application will be removed from the housing register.”*

4.4 The exclusion of former and serving members of the armed forces from the Local Connection and Residency qualification criteria is a mandatory requirement (specified in legislation). It was also decided to exclude those people to whom the Council owed the main homeless duty (under Part 7 of the Housing Act 1996) from the Local Connection and Residency qualification criteria in order to ensure that the Council could assist those people and their households whilst making the best use of the Council’s housing stock – this is addressed further below.

4.5 When the revised Allocations Scheme was being considered Members expressed an interest in the Council considering whether the residency qualification criteria (the

requirement to live within the borough of Crawley for a minimum of 3 years) should be extended to 5 years.

## 5. Description of Issue to be resolved

- 5.1 Members are now asked to assess the relevant considerations (as set out in this report) and then decide upon whether to amend the part of the Local Connection and Residence qualification criteria of section 2.4.2.1 of the Allocation Scheme from 3 years residence in the borough of Crawley to 5 years. Relevant considerations and analysis are set out in this report.

### Government Guidance

- 5.2 The statutory government guidance on local connection, *Providing social housing for local people*, was published in December 2013. In paragraph 13 of the guidance, the Secretary of State's view is set out as follows:

"13. Some housing authorities have decided to include a residency requirement as part of their qualification criteria, requiring the applicant (or member of the applicant's household) to have lived within the authority's district for a specified period of time in order to qualify for an allocation of social housing. The Secretary of State believes that including a residency requirement is appropriate and strongly encourages all housing authorities to adopt such an approach. The Secretary of State believes that a reasonable period of residency would be at least two years."

- 5.3 The guidance also states that when setting residency criteria councils should take proper account of special circumstances. For example protecting people who need to move away from another area, to escape violence or harm; as well as enabling those who need to return, such as homeless families (who meet the homelessness criteria) and care leavers.
- 5.4 The Housing Act 1996 requires that local authorities must have regard to statutory guidance when developing policies.

### Impact on homeless applicants applying to the Council if the local residency qualifying criteria was amended

- 5.5 Applicants who approach the Local Authority as homeless are assessed in accordance with Part 7 of the Housing Act 1996. Where the Council decides that it owes an applicant the main housing duty (that is, the applicant is homeless, eligible, in priority need and not intentionally homeless), the Council also considers whether the applicant has a local connection to Crawley (because if they do not, we can look to refer the applicant to an authority with whom they do have a local connection). When the main homeless duty has been accepted, the Council can discharge it in a number of ways including with an offer of private rented sector accommodation on an assured shorthold tenancy of 12 months or more, or an offer of suitable social rented housing.
- 5.6 However, it should be noted that the local connection criteria applied in homelessness cases is different to the local connection qualification criteria being discussed in this report in relation to allocation of social rented housing. A person therefore may have a local connection for the purpose of the Council owing them the main homelessness duty but yet not meet the residency and local connection qualification criteria to be made an offer of social rented accommodation under the Council's Allocations Scheme.
- 5.7 It is for this reason that those to whom the Council owes the main homelessness duty are excluded from the residency and local connection qualification criteria in section 2.4.2.1 of the Allocations Scheme. Therefore, applicants owed the main homelessness duty and

who are living in temporary accommodation qualify to join the housing register and can be made an offer of social rented accommodation even if they do not meet the **current 3** year residency qualification criteria.

- 5.8 With this in mind, there is a risk that an increase in the residency qualification criteria could be a driver for people to apply for homelessness assistance (when they may not have otherwise done so) to access social housing if they have not lived in Crawley for 5 years, rather than wait until they meet the housing register criteria or rent in the private rented market to resolve their housing problem. This could potentially increase the number of homeless approaches and applications and drive up the usage of expensive temporary accommodation.
- 5.9 During the last 6 months 85 homeless application were placed into temporary accommodation. Around 26% had not lived continuously in the borough for at least 3 years and around 44% for 5 years.
- 5.10 Officers recommend that the exclusion for those owed the main homelessness duty remains in the Allocations Scheme (whether or not the residency qualification criteria is amended from 3 to 5 years) otherwise the Council's ability to discharge its duty to many people to whom it owed the main homelessness duty would be significantly affected. Further, officers recommend that if Members decide to increase the residency qualification criteria from 3 to 5 years that a review of the change and its impact on homeless applications should be carried out within 6 months from the date of implementation.

#### Dealing with applicants with exceptional circumstances

- 5.11 Aside from the statutory exception (former and serving members of the armed forces – as mentioned in 4.4 above), and the exception relating those to whom the Council owes the main homelessness duty (discussed above), the Council would still be able to apply an exception to the residency qualification criteria to an applicant who had not lived in the borough for the minimum period if the applicant were able to demonstrate exceptional circumstances. This is provided for in the wording of section 2.4.2 of the Allocations Scheme. As it is not possible to anticipate all possible circumstances in which an applicant may find themselves when applying for housing, the ability for the Council to dis-apply the residency qualification criteria in exceptional circumstances allows the Council to remain flexible and assist where, in an exceptional case this is considered appropriate and proportionate.

#### Wording of the amendment to the Allocations Scheme required if Members decide to increase the residency qualification criteria

- 5.12 The current wording of section 2.4.2.1 of the Housing Allocation Scheme is set out in 4.3 above. If Members decide to increase the residency qualification criteria to 5 years, the amendment to the Scheme which would be required to give effect to this would be to substitute "3 years" with "5 years" in dot point 1 of section 2.4.2.1 of the Scheme, as follows:

- *Applicants who have lived continuously in the Borough of Crawley for **5 years** immediately prior to the date of the housing register application*

## **6. Information & Analysis Supporting Recommendation**

- 6.1 The following table shows other Councils who have adopted a residency criteria (or local connection) and the length of time a person has to live in the area before being allowed to join their waiting list or be offered an allocation of social rented accommodation.

Local Authority	Local Connection and Residency Criteria
Horsham	2 years
Mid Sussex	2 years or 3 out of the last 5 years
Brighton and Hove	2 years
Adur and Worthing	6 months out of 12 or 3 out of 5 years
Arun	5 years or 10 out of the last 15 years
Hastings	3 years
Thanet	5 years
Hammersmith and Fulham	5 years
Croydon	1 year
Hounslow	5 years

- 6.2 Officers at the time of writing are unaware of any legal challenge to any other local authority's residency qualification criteria. However, there is a risk that if more and more local authorities increase their residency qualification criteria, allocation policies may be the subject of legal challenge on the basis of public law grounds. Clearly the more restrictive the local residency requirement the more people are non-qualifying thus creating a larger pool of potential people who may wish to challenge a council's policy.
- 6.3 Following the introduction in December 2013 of the 3 year residency qualification criteria to the Council's Allocation Scheme, approximately 200 applicants were removed from the Housing Register because they did not meet that criteria. Further, approximately 50 applicants who have applied since December 2013 did not meet the 3 year residency qualification criteria. It is not possible to quantify how many current applicants would not meet the qualification residency criteria if it were to be increased from 3 to 5 years as the Council does not hold the information required to determine this. However, it would be reasonable to anticipate a similar number of applicants to those previously affected (by the introduction of the 3 year residency qualification criteria) to be impacted.
- 6.4 An equalities impact assessment has been carried out on the proposal to amend the residency criteria from 3 to 5 years for new and existing applicants. This found that the majority of people with the protected characteristics were not majorly affected by the proposal. A summary of this impact assessment can be found at **Appendix 1**.

### Consultation

- 6.5 Legislation requires that the Council send any proposed alteration to its Allocation Scheme which reflects a major change of policy to all Housing Associations in Crawley, and afford them a reasonable opportunity to comment on the proposals.
- 6.6 Officers have consulted with those associations in respect of a potential change of the residency qualification criteria from 3 to 5 years. Five out of the thirteen Housing Associations responded stating that they broadly supported the proposed changes to the scheme. One Housing Association raised a concern that it may increase the number of people applying to neighbouring Local Authorities for housing where the residency qualification criteria is less than 5 years.

## **7. Implications**

- 7.1 There are no staffing or financial implications, and any cost to re-assess housing applications will be met from existing budgets.
- 7.2 It is anticipated that implementation of the changes should be achievable within 6 to 8 weeks of the Full Council decision so that the revised Allocations Scheme could take effect from 3<sup>rd</sup> December 2014.

## **8. Background Papers**

Government guidance: Providing social housing for local people, Statutory guidance on social housing allocations for local authorities in England, December 2013  
([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/269035/131219\\_circular\\_for\\_pdf.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/269035/131219_circular_for_pdf.pdf))

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## Appendix 1

### 1. Summary of the Equalities Impact Assessment

- 1.1 An equalities impact assessment has been carried out on the proposal to amend the residency criteria from 3 year to 5 years for new and existing applicants. This found that the majority of the protected characteristics **were not majorly affected by the proposal**.
- 1.2 There were some groups such as Gypsy and Travellers who were considered to be impacted by the proposed change. A gypsy or traveller will meet the local connection requirement if they have lived in the Borough for the required amount of time, regardless of whether it was in a bricks and mortar dwelling, caravan or mobile home. If the household were to travel for the purposes of work, dispensation may be applied and the local connection criteria met. This would have to be considered on a case by case basis as the situation (reason for travelling, length of time away from the Borough) will vary. However, because there were only two applicants on the housing register assessed as a gypsy/traveller the impact is considered to be low. It should be noted that the very nature of being a traveller is being transient and due to the lack of a designated traveller site in Crawley, this group may never have the option to build a local connection to the borough.
- 1.3 In mid June 2014 the breakdown of the housing register by nationality was as follows: 7% EEA nationals, 2% non EEA nationals, 2% who have said 'other nationality', 20% did not state their nationality, and 69% said they were UK nationals. Data from the Department of Work and Pensions shows that the number of overseas nationals making NINo registrations (applying for a national insurance number) in Crawley is decreasing.
- 1.4 This would imply that the inward migration of overseas nationals (who are less likely to have a strong local connection to Crawley) is decreasing. Increasing the local connection criteria could impact (reduce) the 11% of households on the register who are not UK nationals, however their ability to access the housing register isn't solely dependant on how long they have resided in Crawley, as there are other local connection criteria that may apply to them such as family members who are living in the borough.
- 1.5 An individual's ethnicity will not affect their local connection, as local connection looks at how long as person has lived or worked in the Borough (or whether they have immediate family who live in the area).
- 1.6 The housing register is designed to meet the housing needs of those that (for varying reasons) are not able to meet their own needs. A significant reason for people not being able to meet their housing needs is affordability. Therefore any change to the allocations policy that may potentially remove households from the housing register and prevent people from accessing it in the future will by its very nature impact those of a socio economic disadvantage. However, as the proposed change is to local connection criteria, it is not anticipated that this will disproportionately affect those that are any worse off than others on the register.