

**COUNCIL
18 NOVEMBER 1998**

**REVIEW OF HOUSING ALLOCATIONS POLICY
(Director of Social Services & Housing/
Director of Corporate Services - Legal)**

1 INTRODUCTION

- 1.1 At its meeting on 1st September 1998 the Housing Sub-Committee considered a report on the Council's Housing Allocation Policy. The Sub-Committee accepted a motion to award three additional points under the policy to couples who are legally married.
- 1.2 The motion of the Sub-Committee has, pursuant to Standing Order 47, been referred to this meeting of the Council as a recommendation (Minute 20 of the Housing Sub-Committee). The purpose of this report is to assist Members in their consideration of the recommendation by setting out the legal framework relating to housing allocation schemes and setting out relevant housing issues.

2 THE LEGAL FRAMEWORK

- 2.1 The Housing Act 1996 ("the Act") introduced a requirement for every local housing authority to have an allocation scheme. The Act stipulates that allocation schemes must secure "reasonable preference" is given to:-
- (a) people occupying insanitary/overcrowded/unsatisfactory housing conditions
 - (b) people occupying housing accommodation which is temporary or occupied on insecure terms
 - (c) families with dependent children
 - (d) households which include someone who is expecting a child
 - (e) households which include a person with a particular need for settled accommodation on medical or welfare grounds
 - (f) households whose social or economic circumstances are such that they have difficulty in securing settled accommodation

In addition, the Act enables the Secretary of State to specify additional categories to whom "reasonable preference" should be extended; that power has been exercised to add homeless persons to the categories mentioned above.

- 2.2 The Act requires local housing authorities, when formulating their allocation schemes, to have regard to such guidance as the Secretary of State may from time to time give. Although the previous Code of Guidance encouraged

local authorities to exercise their discretion in formulating an allocations policy so as “.....to ensure that first priority should be the provision of housing for married couples with children.....who are living in unsuitable accommodation”, the current Code of Guidance gives no indication that marital status should attract any degree of preference.

2.3 Recent case law confirms that local authorities may only exercise their statutory powers for the purpose which Parliament intended they should be used for. There is nothing in the legislation to indicate that Parliament intended that the legislation should be used to promote moral or religious convictions and any decision to award additional points to married couples for the purpose of promoting a religious or moral view of marital status would very probably be unlawful. Also, any decision which results in “reasonable preference” not being given to those categories of persons referred to in 2.1 above would be unlawful. Although all of the categories of persons to whom preference must be accorded are defined by reference to housing need the current Code of Guidance advises that “...the allocation of housing is not just about housing need. It embraces other objectives such as using stock effectively, reducing the number of empty and underoccupied properties, improving the turnround time for void properties, maximising rental income, and, where possible, creating balanced communities”. That advice lends support to the view that it would be lawful to afford some degree of preference to married couples if it is considered that to do so would encourage the creation of stable and balanced communities.

2.4 Housing Allocation schemes apply to the nomination of persons to registered social landlords as well as to the allocation of Council owned stock. Consequently, the Act requires that before adopting an allocation scheme or altering a scheme to reflect a major change of policy the Council must send a copy of the draft scheme or proposed alteration to every registered social landlord with which the Council has a nomination arrangement **and** afford them a reasonable opportunity for comment.

3 HOUSING CONSIDERATIONS

3.1 Marital status is not an indicator of housing need and therefore the award of additional points cannot be justified on that basis. Inevitably, if additional preference is to be given to those who are married there will be some specific disadvantage to those persons in need of housing but who are widowed, divorced or simply caring for children alone; this could well lead to such persons feeling, perhaps not unjustifiably, that they were being afforded a lesser priority through no fault of their own. Similarly, as most people who care for children alone are women, this could also be interpreted as discriminatory.

3.2 It should be noted that in the current scheme, no advantage is given to single parents.

3.3 Families on the Housing Register can wait up to 5 years to be re-housed. At present, their points level reflects their time in need, and their current housing situation. If families move from sharing with relatives, to temporary self-contained accommodation, their points may reduce; this is usually readily understood given the relative decline in their housing need. If, however, an applicants points had to be reduced following the death of their spouse or because, possibly through no fault of their own, divorce, there would be far

less likelihood of the reasons for reduction in preference being thought to be fair. Also, if a person were to cease to be married through bereavement or a divorce arising from the violent or unreasonable behaviour of their former spouse, it would be difficult to justify a reduction in points on the basis of building stable and balanced communities; indeed it could be argued that a reduction in points in those situations would be contrary to the avowed aim of the policy.

Contact for further Information

Trevor Farmer - Ext 1936

Timothy Wheadon - Ext 5603

Alex Jack - Ext 5679

Doc. Ref

committee

committees/housing