

Report To: Full Council

Date of Meeting: 1st December 2015

Lead Member / Officer: Barbara Smith / Jamie Groves

Report Author: Geoff Davies – Lead Officer - Community Housing

Title: Community Housing Policy - Updates for approval

1. What is the report about?

The report accompanies three policy documents relating to the Community Housing service. The policies are the Allocations Policy, Anti-Social Behaviour Policy and the Introductory Tenancy Policy.

2. What is the reason for making this report?

A decision is required to approve revisions to the three policies.

3. What are the Recommendations?

It is recommended that Council approve the attached policies.

4. Report details

The Community Housing service is required to have up to date policies to set out our approach to allocating and managing our housing stock and how we will act within legislation and relevant codes of practice.

In this case the following policies are presented for approval, having recently been reviewed:

Allocations Policy

The Allocations policy was due for review and needed to be updated to reflect new legislation and a new code of practice issued by Welsh Government.

These are:

- Housing (Wales) Act 2014
- Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness – Welsh Government April 2015

The new Head of Service, commissioned Whiteheads solicitors via our internal legal department, to review existing Housing policies and procedures to ensure policies were up to date with current legislation; and to advise the service on our legal obligations in respect of the policies referred to in this report.

Whilst the updated policies will ensure we comply with legal requirements we are mindful that on 14th January 2014 Cabinet approved adopting SARTH the 'Single Access Route to Housing', which incorporates a move away from the current allocations points system to a housing need "banding" system. This policy is therefore an interim measure to ensure we comply with our legal obligations pending the implementation of SARTH in Denbighshire.

A further updated policy reflecting SARTH will be brought to council for approval in 2016 / 17, in the meantime it is important our existing policies are up to date with current legislation. Revisions have been made with SARTH in mind.

In summary the changes that affect this policy are as follows:

- Adoption of schedule of who is ineligible for Housing (3.3 & Appendix 1 of the Policy) as detailed in the Code of Guidance.
- Ensuring compliance with the requirement to award "additional preference". This supports some clarity on the "management points" awards in our current practice (4.2 of the policy).
- Clarity on terminology used to decide on Reduced Preference due to unacceptable behaviour as detailed in the Anti-Social Behaviour and Crime and Policing Act 2014 (7.0 of the policy).
- Acknowledgement that homeless households will be assessed under the Housing (Wales) Act 2014. (12.0 of the policy).

The changes made to the policy will not fundamentally change our approach to allocations. The changes reinforce clarity on our current practice.

Anti-Social Behaviour Policy

This policy has been updated to reflect the introduction of the Anti-Social Behaviour and Policing Act 2014. Again there are no fundamental changes to our approach on dealing with nuisance behaviour however common legal remedies such as the Anti-Social Behaviour Order (ASBO) have been replaced. Our policy has been updated to reflect these changes and all powers can be considered as part of our enforcement activities.

Due to the new management arrangements in Community Housing a further review of how we deliver anti-social behaviour services will be undertaken in 2016 / 2017. Full consultation will be carried out with Members, customers and stakeholders as this review progresses. Consultation has not been carried out with customers for this policy update as the changes are to reflect legislation and are mandatory.

In summary the changes to this policy are:

- Update powers available as "Civil Injunction" replaces Anti-Social Behaviour Order (ASBO) and Anti-Social Behaviour Injunction (ASBI) (3.1 of the policy)
- Update powers available as "Criminal Behaviour Order" replaces Anti-Social Behaviour Order on conviction (3.2. of the policy).

- Introduction of Absolute Grounds for Possession (3.4.5 of the policy). This would only be pursued in extreme cases where previous court action has been breached or a serious offence has occurred at the property.
- Reflect terminology of the new tenancy agreement which came into force in April 2015 (5.0 of the policy).

Introductory Tenancy Policy

This policy has been written with support from Whiteheads Solicitors to improve the clarity of the current policy and procedure; whilst ensuring we comply with legislation.

This document formalises our established practice with Introductory Tenancies which have been used for all new tenants to the Council since 2007. Extensive consultation was carried out prior to their introduction.

In summary the use of Introductory Tenancies allows the council to monitor and support tenants through the first 12 months of their tenancy. Should the tenant's behaviour not be in accordance with their tenancy agreement and interventions to address this have failed, then the council can apply to the County Court to end the tenancy at the end of the 12 month period.

The grounds for possession are "mandatory" and the court would not have to consider the reasonableness of the council's application subject to an interval appeals process being correctly followed.

If the introductory tenancy is completed satisfactorily the tenant will become a secure tenant on completion of the 12 months. The main impact of this is that the council would have to prove to a court that it was reasonable to end a tenancy due to unacceptable behaviour and the decision would be "discretionary" and subject to the opinion of the court.

5. How does the decision contribute to the Corporate Priorities?

These policies underpin the delivery of services which contribute to the corporate priorities of "Ensuring access to good quality housing and "To promote strong and sustainable neighbourhoods"

6. What will it cost and how will it affect other services?

These policy's reflect current practice and will be delivered within existing resources. No additional costs are expected as a result of these policies.

7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision?

An Equality Impact Assessment (EIA) has been carried out for each of the 3 policies. These policies are intended to contribute positively to promoting equality and fairness and to address discrimination.

An action plan for each policy area has been developed to monitor data to ensure that fair access is provided to each service area and that there is no negative impact on groups with the protected characteristics.

A copy of the summary Equality Assessment is attached for each of the three policies presented for approval.

8. What consultations have been carried out with Scrutiny and others?

The Lead Member for Modernisation and Housing has been consulted on the updates to these policies.

These policies have previously been subject to full consultation and as these amendments reflect legislation changes only no formal consultation is required.

The Allocations Policy and Anti-Social Behaviour policy will both be subject to review during 2016/ 2017 and full consultation will take place if any significant changes are proposed.

9. Chief Finance Officer Statement

There are no direct additional cost implications associated with the policies. All costs must be contained within existing resources.

10. What risks are there and is there anything we can do to reduce them?

The updating and implementation of these policies helps mitigate risk.

The risks are:

Failure to adhere to a prescribed Allocations Policy and appropriate legislation could lead to a legal challenge from a customer. The updated policy seeks to ensure we set out our policy clearly in line with our legislative duties.

Failure to follow the appropriate legislation when taking action against a perpetrator of anti-social behaviour. Any defence could succeed if policy was not adhered to or appropriate legislation not complied with. These policies seek to ensure we act in accordance with our powers.

11. Power to make the Decision

Amendments are made to these policies to ensure that the Council complies with legislation in carrying out our housing management functions. In this case the legislation and guidance are:

- Housing (Wales) Act 2014
- Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness – Welsh Government April 2015
- Anti-Social Behaviour and Policing Act 2014.