1. Background

1.1 The following policies have recently been reviewed: succession, unlawful occupants, joint tenants, assignment and subletting & taking in lodgers.

Services to tenants and other occupants relating to tenancy matters are delivered from 14 neighbourhood offices, dispersed throughout the borough. The aim of the Council when delivering housing services, including implementing all of the above policies, is to deliver an equitable and efficient service and to make good and efficient use of housing stock, taking into consideration the needs of all users of housing services.

2. The scope of the EIA: The proposed changes to policy

1.2 The policies reviewed and the recommended changes can be broken down as follows:

Succession – this policy is applicable when a tenant dies and there is a person left in occupation, who is legally entitled to succeed to the tenancy.

The proposed changes are as follows:

a) Current policy allows “elderly orphans” (sons and daughters over 50 years of age) to remain in the property they currently occupy, even if a previous succession had taken place, provided they had lived in the property for at least ten years and did not under-occupy by more than one room. It is proposed to replace this criteria to 60 years of age or over and to have lived in the property for more than ten years or to have lived in the property for at least thirty years as an adult.

b) Current policy allows for a non-related person to be granted a tenancy in certain circumstances. It is recommended that all non-related persons left in occupation following the death of a tenant be dealt with under the Unlawful Occupation policy (see below).

Unlawful occupation – this policy is applicable when a tenancy is ended, leaving a person in occupation who is not legally entitled to succeed to the tenancy. The tenancy may be ended by death, termination of the tenancy or abandonment. Current policy provides a new tenancy of this or an alternative property to all unlawful occupants who have lived there for one year or more.

The proposed changes are as follows:

a) That the existing Unlawful Occupation table is amended to include only the following people:
   - Former joint tenants of the property
   - Family members who would have succeeded had no previous succession taken place
   - Carers of one year or more
b) Provision will also be made for other Unlawful Occupants in priority need who need matches the property they currently occupy

Joint tenants – this policy is applicable when a sole tenant makes a request for a joint tenancy. Normally the proposed joint tenant is a partner or spouse of the sole tenant.

The proposed changes are as follows:-

a) Current policy allows married couples a joint tenancy on request, but all other couples are required to wait for one year. It is proposed that all couples be granted a joint tenancy on request provided there is a clear rent account and no other breach of tenancy.

b) Remove criteria in current policy which states “provided the move is not to a better property” when granting joint tenancies to parents and children who care for them.

Assignment of a tenancy – this policy is applicable when a mutual exchange takes place, a tenancy is assigned to somebody who would be entitled to succeed had the tenant died immediately prior to the tenancy being assigned or a tenancy is assigned by the Courts, under family law.

The proposed changes are as follows:-

a) Currently a new tenancy is created when tenants carry out a mutual exchange. It is proposed that exchanges be dealt with by assignment. No new tenancy agreement will be signed.

b) To grant permission to tenants who are entitled to assign their tenancy to potential successors, provided this does not result in under-occupation.

Subletting and taking in lodgers – this policy is applicable when a tenant requests permission to take in a lodger or subtenant, or requests permission to leave a person in occupation whilst they are temporarily absent from the property.

The proposed change is as follows:-

a) A procedure to be drawn up for dealing with tenants who leave their property for a period of time and who have intention to return.

See appendix 1 details for table showing changes to existing policies

2 The Equality Impact Assessment team

2.1 The equality impact assessment team examined the proposed changes to the above policies to ensure that the service is equitable and nobody is disadvantaged or treated less favourably because of age, disability, race, gender or sexual orientation.
2.2 The assessment was carried out by Jo Beck, Senior Housing Policy Officer and Pat Setright, Housing Policy Officer. As part of the assessment a focus group of staff from Tenancy Services and Housing Needs were consulted and their comments have been taken into account in this report.

3 Relevance of equality legislation and equality categories

The policies are being revised with the following aims:
- To ensure that the needs of non-tenant residents of council property are fairly balanced against those of people on the housing register when decisions are made to allocate a new tenancy
- To provide clearer information and access to tenants about their legal rights and responsibilities

The changes have relevance to equality in the following areas:

Race/ethnicity
- Some BME groups are more highly represented amongst non-tenant housing applicants than amongst existing residents of council property, and so could be disadvantaged if policies give allocation priority to people already in occupation of council properties.
- BME residents may have less access to information about tenancy rights

Disability
- Policies for reaching decisions on housing need must address the particular housing issues for disabled people
- Disabled residents require equal access to information about tenancy rights

Gender
- If most carers are women, the inclusion of an new criteria to consider the needs of carers should positively benefit women

Age
- The proposed change to succession policy affects older people, and the impact needs to be measured
- Any change in favour of housing applicants rather than existing residents is likely to benefit younger people in housing need

Sexual orientation
- Proposed changes to criteria for granting a new joint tenancy will have positive impact on equality on the grounds of sexual orientation.

4 Focus of the review

4.1 The review focused on the following areas when considering the delivery of an equitable service.

- Access to a tenancy
- Access to the service
- Access to information
- Staff training
5. **Collection of data and research assessment**

5.1 The review considered what data might be used when administering these policies and considered the following areas of data:

- Lettings data
- Complaints *(February 2004: 30 received of which 7% were misc/various)*
- Councillor/MP enquiries *(February 2004: 127 received of which 6% were tenancy related)*
- GEM data
- Equality monitoring review of the rent service *(for data on BME tenants and tolerated trespassers)*
- Tenants satisfaction survey 2003

6 **Consultation**

The following groups were consulted as part of this equality impact assessment:

- Housing staff
- Equality Organisations (responses recieving from Mencap and Greenwich Association of Disabled People)

Consultation on the policy changes overall was also carried out with:

- Advice agencies
- Tenants (via a consultation event focus group)

7 **Key findings**

7.1 The review identified potential adverse impacts when operating these policies in the following areas. Recommendations to mitigate these adverse impacts are contained in appendix 1.

7.2 **Succession**

7.2.1 **Age**

The succession policy allows for a son or daughter who is over sixty and has lived in the property, with their parent(s) for ten years or more, to remain in that property, even if they under-occupy the property. They must not under-occupy by more than one room. Whilst this could be seen as discriminatory on grounds of age to occupants who are under 60 years of age, the policy is designed to positively impact on those occupants whose options are diminishing because of their age. Furthermore, provision is made for other occupants of very long-standing in terms of a length of residence criteria.

Data indicates that very few people were offered tenancies of the property they currently occupy under the “Elderly Orphans” policy. The policy change is therefore unlikely to have very significant impact.

Generally, the revised policies will provide additional family sized properties for people not already living in council properties or awaiting which should positively benefit young homeless people waiting for a permanent home.
7.2.2 Disability

There is potential to treat disabled people less favourably by applying a blanket policy that does not address individual need. For example, in applying ‘Ground 16’ rules to rehouse a successor to a smaller home. For a physically disabled successor this could be particularly onerous if it is more difficult for that person to move because of adaptations, carer arrangements and/or established good means of accessing services locally.

Similarly, successors with learning disabilities who succeed to the tenancy following the death of their parents and who under occupy may be required to move to a suitably sized property. However, they may have a strong support network within the vicinity of their parent’s property, including carers, and may be better equipped to live independently by either remaining in the property they currently occupy, maybe with another relative moving in, or by occupying a property nearby.

7.3 Joint tenants

There is no obvious way in which the proposed changes to the joint tenants policy discriminates against any group. The proposed changes impact positively on same sex couples and on unmarried heterosexual couples.

7.4 Assignment

There is no obvious way in which the proposed changes to the assignment policy discriminate against any of the equality categories. The proposal to publicise and advise tenants properly will have positive impact on equality, because it will broaden access to a legal right and opportunity that many tenants will not know about and so have limited access to.

7.5 Subletting, taking in lodgers and temporary absence from the home.

There is no obvious way in which this policy discriminates against any of the equality categories.

There may a positive impact for some BME tenants who may be more likely to travel overseas for long periods for family reasons.

7.6 Unlawful Occupants.

7.6.1 Disability

The Unlawful Occupants policy includes provision to grant a new tenancy of a different property in some circumstances. For reasons set out in 7.2.2 above (succession) this could be seen as discriminatory, because of the differential impact on disabled tenants in adapted properties etc.

7.6.2 Race

The proposal to remove access to a new tenancy from unlawful occupants who do not fit the limited criteria will free up some properties for people on the housing register. This will be fairer because it will benefit applicants with greatest housing need as opposed to those currently in occupation, and so will be fairer.
This change should positively impact on race equality. Currently BME tenants are over represented on the housing register, and are less likely to be unlawful occupants (see 10.4 below).

8 Delivery of the service and customer care

8.1 Concerns were raised during consultation about the need for sensitivity by staff when implementing these policies; especially following the death of a tenant. The policies most likely to be affected by this are Succession and, in some circumstances, Unlawful Occupants.

9 Access to the service

9.1 Concerns were raised that not all users of the service are aware of their options, especially in the case of assignment where historically we have not been pro-active in advising tenants of their rights.

9.2 Lack of information and advice will particularly disadvantage tenants with less awareness of services and tenancy rights; including some BME tenants for whom English is not the first language and disabled tenants who may have problems in accessing offices.

10 Collection of data and research assessment

10.1 Generally, there was limited data available for use in this assessment. The circumstances which would require action under these policies relates to changes to existing tenancies, termination of existing tenancies, allocations of new tenancies or a request for permission to allow another person to dwell in the property. As such, they do not happen routinely or frequently, and as a result, there are no routine questions asked on tenant’s satisfaction surveys relating to the administration of these policies.

10.2 Neither complaints nor MP’s/Councillors Enquiries are broken down into such detail as to provide information on these specific policies

10.3 Information obtained from GEM data indicated that very few tenants are allocated under the existing “Elderly Orphans” policy

10.4 Information obtained from GEM data indicated that 57% of applicants on the housing register as at May 2004 were white whilst 43% were BME applicants. Data obtained from the 2001 Census indicates that overall white occupants make up 77% of the population, whilst BME occupants make up 23%. There are therefore proportionately more BME applicants on the housing register, either as homeless applicants or awaiting transfer.

11 Mitigation of adverse impact

11.1 Some of the adverse impacts identified in the review have been addressed through the delivery of other policies and equality reviews of other services.

11.2 Training took place for housing staff in 2003 to ensure all staff were familiar with language line and could address the needs of tenants for whom English is not the first language.
11.3 Diversity training is currently being rolled out for Council staff.

11.4 Minicomms were installed in all housing offices during 2003 and managers are responsible for ensuring that staff are trained to use these.

11.5 Recommendations to mitigate other adverse impacts identified are attached in appendix 2.

12 Monitoring

12.1 Training records are kept for all staff training, including training recommended in this equality impact assessment. Managers are responsible for identifying training for staff and ensuring such training takes place.

12.2 Feedback is encouraged from user support groups and campaigning groups to ensure tenants needs are being met and policy is being adhered to.

12.3 Creation of new tenancies under the revised policies should be monitored using information on GEM, and reported along with equality monitoring data to DMT and managers.

The revised policies have been developed to conform with Human Rights legislation, and to protect and promote human rights.

Article 8 protects a persons rights to enjoyment of their home, which has relevance to the way in which decisions are made about unlawful occupants resident in council property. The revisions to policy will address individual rights and circumstances, whilst also taking into account the needs of other members of the community requiring housing. There is a difficult balance to be achieved between individual rights of people in residence, and the rights and needs of people waiting for housing, and the policy will enable staff to reach decisions that are proportionate.

Article 14 prohibits discrimination in relation to human rights. Recent case law has established that Article 14 protects succession rights of same sex partners, which is already Greenwich policy. Proposed changes to the joint tenants policy will improve equality for unmarried couples, including same sex partners.

14 Crime and Disorder Act 1998. Section 17 of the act places a duty on local authorities to take account of the community safety dimension in all of its work. The revised policies will create a disincentive to anti social behaviour, domestic violence and other criminal activity, in the way that decisions are reached about granting a new tenancy. Where there has been a proven breach of a previous tenancy a new tenancy will not be offered.
## PROPOSED CHANGES TO POLICIES

### SUCCESION

<table>
<thead>
<tr>
<th>Current Position</th>
<th>Proposed change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sons and daughters over 50 who are non-successors and have lived in the property 10 years or more allowed to stay in property providing they do not under-occupy by more than one room.</td>
<td>All sons and daughters (successor and non-successors) who are under-occupying will be offered suitable alternative accommodation. Where the son or daughter wishes to remain in the property, they can do so by an appeals process. If they meet certain criteria, they will be allowed to remain provided they do not under-occupy by more than one room.</td>
</tr>
<tr>
<td>Non related person – tenancy will be granted in certain circumstances</td>
<td>All non-related persons left in occupation following the death of the tenant to be treated in line with the Unlawful Occupants Policy.</td>
</tr>
</tbody>
</table>

### ASSIGNMENTS

<table>
<thead>
<tr>
<th>Current Position</th>
<th>Proposed changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assignment to a potential successor. Assignment will not be approved unless it forms part of a matrimonial proceedings</td>
<td>Tenants who wish to assign to a potential successor are advised of their rights to do so, including the qualification in the Tenancy Agreement that the Council will not agree to an assignment that results in under-occupation</td>
</tr>
<tr>
<td>Assignment by exchange. Not relevant Tenants wishing to exchange their property sign a new tenancy agreement</td>
<td>All Mutual Exchanges be dealt with by Assignment by Mutual Exchange. No new tenancy to be signed. Introductory Tenants would have no right to exchange by assignment during the period of the Introductory Tenancy.</td>
</tr>
</tbody>
</table>

### SUBLETTING AND TAKING IN LODGERS

<table>
<thead>
<tr>
<th>Current Position</th>
<th>Proposed changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>No reference to tenants who leave their property to work or travel</td>
<td>A procedure for dealing with such cases be included in the policy</td>
</tr>
<tr>
<td>JOINT TENANCIES</td>
<td>Proposed changes</td>
</tr>
<tr>
<td>----------------</td>
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</tr>
<tr>
<td>No current policy where the sole tenant requests a joint tenancy with a partner who is not a spouse. A note states that it has become practice to refuse such an application unless the relationship has been established for a year.</td>
<td>Requests for joint tenancies between spouses and co-habiting partners be granted on request provided there is a clear rent account and no other breach of tenancy conditions.</td>
</tr>
<tr>
<td>Where children wish to surrender their tenancy to move in with an elderly parent a joint tenancy may be created if the parent wishes and provided the move is not to a better property.</td>
<td>Delete “provided the move is not to a better property.”</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>UNLAWFUL OCCUPANTS</th>
<th>Proposed changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Policy deals with people left in occupation following the ending of a tenancy. The policy allows for certain persons left in occupation to be offered a tenancy either of that property or another, subject to certain checks and criteria.</td>
<td>That the Unlawful Occupants left in occupation following the ending of a tenancy who be offered a tenancy be restricted to former joint tenants, family members who would have succeeded had no former tenancy taken place and carers of 1 year standing or more. Provision to be made for those in priority need whose need matches the property they occupy.</td>
</tr>
</tbody>
</table>
### Appendix 2

<table>
<thead>
<tr>
<th>Policy</th>
<th>Possible adverse impact</th>
<th>Steps taken to mitigate</th>
<th>Person responsible</th>
<th>Timescale</th>
</tr>
</thead>
<tbody>
<tr>
<td>Succession and Unlawful Occupation</td>
<td>Blanket approach would ignore the particular needs of disabled applicants in relation to existing accommodation and rehousing</td>
<td>Policy and procedure to include provisions to assess individual need, where appropriate with support/advocacy agency. Staff training on customer care</td>
<td>Policy Unit</td>
<td>Sept 04</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Managers/Training Unit</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Succession And Unlawful occupation</td>
<td>Successors or unlawful occupants with learning disabilities could be disproportionately affected by being rehoused away from carers, familiar locality, support etc</td>
<td>Provision in policy for the needs a successor to be considered in conjunction between Housing needs, tenancy services and support agencies/families. Staff training on customer care</td>
<td>Policy Unit</td>
<td>Sept 04</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Managers/Training Unit</td>
<td>Ongoing</td>
</tr>
<tr>
<td>All policies under review</td>
<td>Limited awareness of a legal right amongst tenants and staff may limit access to tenancy opportunities to those with most knowledge/advice.</td>
<td>Ensure staff are trained to advise tenants of their rights and options relating to their housing Provide public accessible information on new tenancy policies, offered in alternative formats and languages Briefing to advice and community agencies on new policies</td>
<td>Managers/Training Unit</td>
<td></td>
</tr>
<tr>
<td>Monitor impact of new policies on new tenancies created</td>
<td>GEM team</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>