

HOUSING SELECT COMMITTEE			
Report Title	Overcrowding in Lewisham		
Key Decision	No	Item No.	5
Ward	All		
Contributors	Assistant Director for Housing Services		
Class	Part 1	Date:	30 Jan 2020

1 Summary and purpose of this report

- 1.1 This report provides Housing Select Committee with detail on overcrowding in Lewisham, as requested by the Committee.
- 1.2 This report explores:
- The definition of overcrowding, including the difference between overcrowding and statutory overcrowding.
 - The context and extent of overcrowding in Lewisham;
 - The supply of and demand for social housing in Lewisham;
 - Actions undertaken by the service to support overcrowded households;

2 Recommendations

It is recommended that Housing Select Committee note and comment on the content of this report.

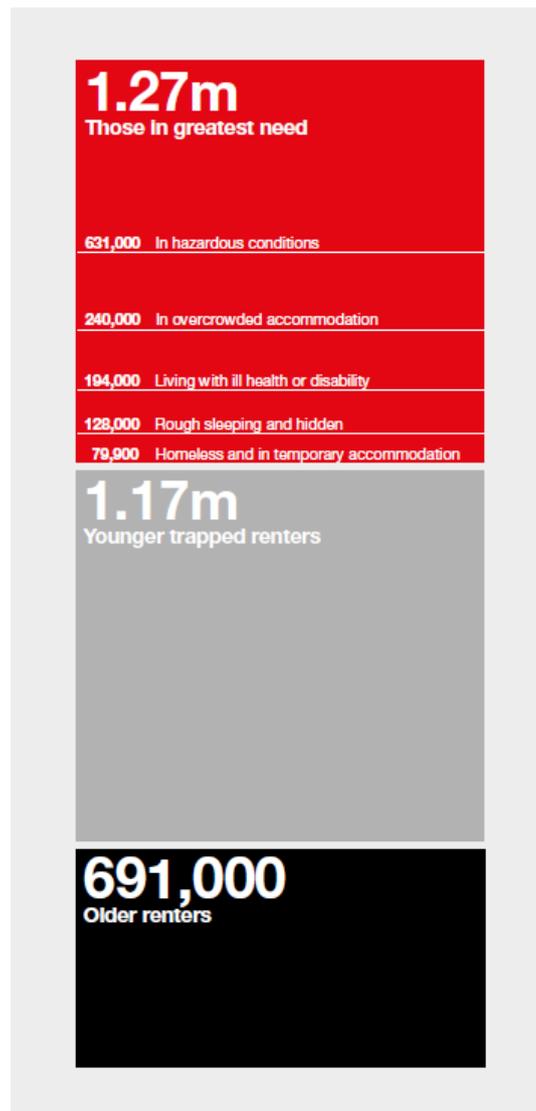
3 Policy Context

- 3.1 The contents of this report are consistent with the Council's policy framework. It supports the following priorities of the Council's Corporate Strategy 2018-22:
- Tackling the housing crisis – Everyone has a decent home that is secure and affordable.
- 3.2 It will also support the delivery of the Council's Housing Strategy 2015-2020, specifically the objective of helping residents at times of severe and urgent housing need.
- 3.3 The contents of this report also refer to the Council's Allocations scheme. The current scheme took effect on the 10th April 2017 and details how the Council operates the Housing Register. Properties are allocated to households in housing need as per an annually agreed letting plan. The current annual lettings plan was approved by Mayor & Cabinet on the 27th March 2019.

4 Background

- 4.1 The scale of the housing crisis is vast. Analysis by Shelter estimates that over 3m households need a social home. This includes a substantial number of older and younger renters trapped in the private sector, and almost 1.3m households in the greatest need.¹

Chart 1 – The number of households requiring a social home in the UK



- 4.2 A chronic lack of supply combined with enormous pressures has a limiting factor on how authorities can respond to this crisis. To tackle the most acute need, authorities are increasingly focussing on using their limited resources to help those with the most urgent and substantive issues. This however limits access to social housing for those who do

¹ https://england.shelter.org.uk/__data/assets/pdf_file/0005/1642613/Shelter_UK_-_A_vision_for_social_housing_full_interactive_report.pdf

not meet this high bar, increasing the risk that they make become homeless or experience other urgent housing need.

- 4.3 The term overcrowding refers to a situation where there is not enough space for a household to live in their home comfortably and safely. The negative impact of overcrowding on all areas of a households wellbeing are widely understood. A number of reports from government departments, charities, the GLA and others outline the extent of the issue and the detrimental impact that overcrowding, particularly severe overcrowding where families require at least 2 more bedrooms, can have on health, social and educational outcomes.^{2 3 4}
- 4.4 Overcrowding is a key facet of housing need. Over the past 20 years, the overcrowding pressure in England has been worsening. The severity of the overcrowding issue in London is a symptom of the housing crisis – it is due to the chronic shortage of genuinely affordable homes.
- 4.5 One of the solutions used to tackle this issue is to increase the supply of genuinely affordable homes of the right size. This has not been delivered at the scale required to meet the required demand for many years.
- 4.6 Overcrowding is most problematic in the rented sector, particularly in social renting. The scale of the challenge is exacerbated by a decrease in the number of social lets available year on year and continued high demand from other groups in housing need. There is currently an unprecedented number of households living in temporary accommodation as a result of homelessness; over 730 are currently living in nightly paid temporary accommodation (the worst and most expensive kind). The rapid increase of homelessness has been due to welfare reform, high housing costs, a chronic shortage of properties available at genuinely affordable rent levels and the impact of the Homelessness Reduction Act .
- 4.7 Housing is usually considered affordable for a household where it costs less than a third of their income. Since 2011, private rents have increased by 50% in Lewisham whereas earnings have only increased by 17%. As a consequence of earnings not keeping pace with costs, the only properties which are affordable to those on the median income are those set at London Living Rent or below. A household in Lewisham would require an income of over £46,000 p.a. to be able to afford the median private rented property, over £47,000 p.a. plus deposit to be able purchase a 50% shared ownership property and over £63,000 p.a. to be able to purchase a property. As housing remains unaffordable to the majority of residents, households are more inclined to remain at home for longer or to seek other solutions, which may not be appropriate, in order to afford housing.

²https://england.shelter.org.uk/professional_resources/policy_and_research/policy_library/policy_library_folder/full_house_how_overcrowded_housing_affects_families

³ <https://dera.ioe.ac.uk/5073/1/138631.pdf>

⁴https://www.london.gov.uk/sites/default/files/gla_migrate_files_destination/Final%20overcrowding%20report%20-%20print%20version.pdf

5 Legal Framework and Definitions

- 5.1 All local authorities are required by section 166a of the Housing Act 1996 to have an allocations scheme which must give reasonable preference to households that meet certain criteria. One of these criteria is when the household is '*occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions*'.
- 5.2 There are two main ways of defining overcrowding –**the statutory definition** of overcrowding (the room standard and the space standard), and **the bedroom standard**, which is the definition used by Lewisham when assessing overcrowding.
- 5.3 The statutory definition of overcrowding is outlined by the Housing Act 1985. The act establishes that a household may be overcrowded on account of the number of rooms or the space that they have available – either the room standard, or the space standard.
- 5.4 The room standard is “contravened” where any two people of the opposite sex who are not a couple are required to share a room subject to the below caveats:
- Children under 10 are not included;
 - A room is considered as sleeping accommodation if it is a bedroom or a living room.
- 5.5 The room standard is not generous. When interpreting this definition, the standard looks at how sleeping arrangements within the premises could be organised, rather than how they are actually organised. Thus, a couple, with two children of opposite sexes and aged ten years or more, with two living rooms (e.g. bedrooms), may not be statutorily overcrowded because the couple could occupy separate rooms, with one each of the children (of the appropriate sex). There is also no limit on the number of people of the same sex who can live in the same room under section 325 although there may be a contravention of the space standard (see below).
- 5.6 The space standard determines the number of people who could occupy a property based on the number of rooms (bedrooms, living rooms and dining rooms), the age of residents and the space of the rooms available. For the purposes of the space standard, a child under the age of 1 is not included and a child between the age of 1 and 10 is counted as 0.5 persons. Rooms under 50 sq ft. are not included. The below tables set out how the standard is calculated.

Table 1 – Space Standard Requirements

Number of rooms	Maximum number of persons
1	2
2	3
3	5

4	7.5
5 or more	2 for each room

Table 2 – Space Standard Requirements

Floor area of room	Number of persons
110 sq. ft. or more	2
90 – 110 sq. ft.	1.5
70 – 90 sq. ft.	1
50 – 70 sq. ft.	0.5

5.7 The second method of defining overcrowding is the ‘Bedroom Standard’ which follows the 2012 Ministry of Housing Communities and Local Government (MHCLG) guidance on the allocation of housing by local authorities. MHCLG recommended that authorities adopt this as a minimum.⁵

5.8 The bedroom standard allocates a separate room to each:

- Married or cohabiting couple;
- Adult aged 21 years or more;
- Pair of adolescents aged 10-20 of the same sex;
- Pair of children aged under 10 regardless of sex.

5.9 The bedroom standard is more generous than the statutory overcrowding standards.

5.10 A worked example of the application of the different definitions of overcrowding:

A couple with one daughter aged 5 and one son aged 8, living in a one bedroom flat with a living room.

	Standard	Application of standard	Outcome
MHCLG Definition	Bedroom standard	The household require a 2 bed property – the children are able to share a room	Overcrowded by 1 bed.

⁵https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5918/2171391.pdf

Statutory Definition	Statutory: Room standard	The room standard disregards individuals under 10, and only considers mixed-sex occupation of non-couples. It also places no limit on numbers of individuals of the same sex sharing a room so would see two rooms as the requirement to split the household between sexes. Given the statutory standard views living rooms as bedrooms, this property would be considered to have the requisite two rooms for the two sexes that live there.	The family are not overcrowded.
	Space standard	Under the <u>statutory overcrowding space standard</u> (as outlined in Table 1) the family would not be overcrowded – they total 3 units and are eligible for 2 rooms. Only if both rooms were smaller than 90ft would the rooms be too small and the standard contravened.	

5.11 In serious cases a household may be considered homeless if it is determined that it would be unreasonable for them to continue to occupy a property on account of its being overcrowded. In making this assessment the local authority would consider the local overcrowding context alongside the room standard and the space standard.

6 London wide context

6.1 London has the highest rates of overcrowding in the country, and the majority of overcrowding in London occurs in the rented sector, predominantly in the social housing sector. As of 2017/18, 15% of households in social housing, 12% of those in private rented housing, and 3% of homeowners were overcrowded.

6.2 It is estimated that over 250,000 (7.5%) of all households in London were overcrowded, including one in nine privately renting, and one in seven social rented homes.⁶ There has been an increase in overcrowding from under 6% to over 8% of all households in London since the 1990s.⁷

6.3 Not all households will require social accommodation to resolve their overcrowding, but where households have very little options to move due to the affordability of suitably sized properties, social housing will likely be needed to resolve their overcrowding, or households will have to move location to where rents for the appropriate property size are affordable.

6.4 As has been reported to the committee previously, demand for social accommodation to tackle housing need, including overcrowding, considerably exceeds the supply of available accommodation. In

⁶ <http://researchbriefings.files.parliament.uk/documents/SN01013/SN01013.pdf>

⁷ <https://data.london.gov.uk/download/housing-london/316587b6-dd75-4c7b-a0fc-365cbdc10db2/Housing%20in%20London%202019.pdf>

2017/18 there were approximately 25,000 social lets to households on all housing registers across London⁸ compared to 310,000 households registered with London authorities⁹.

- 6.5 Overcrowding in London has been exacerbated not just by a lack of supply but a lack of the right supply. To tackle overcrowding effectively, larger homes of three beds or more need to be built in order to facilitate more moves within the overall social housing stock.
- 6.6 The 2017 GLA Strategic Housing Market Assessment (SHMA) identified that over 18,000 new homes of 3 bedrooms or more are required per annum to tackle the backlog of housing need as well as future demand.¹⁰ 23% of these homes will need to be at social rent and a further 22% at intermediate rents.
- 6.7 Unfortunately, there has been a sharp decrease in the number of three beds built by Housing Associations (HAs), who in recent years have been the predominant affordable house builders. The number of three beds built by HAs has decreased from 39% of all new builds in the late 1990s to 17% in the late 2000s.¹¹
- 6.8 Supply increasingly does not meet the demand for social accommodation and new builds are increasingly developed for smaller households. It is increasingly challenging for households to resolve their overcrowding through accessing suitable housing via the housing register.

7 Lewisham context

- 7.1 Overcrowding in Lewisham has decreased since the 2001 census, in which almost 19,000 households were overcrowded.¹² By the 2011 census, 14,000 households (12% of all households) were overcrowded in Lewisham.¹³
- 7.2 Whilst overcrowding has decreased overall in this time, the tenure of those who are overcrowded has changed significantly. In 2001 over 10,000 households living in social rented accommodation were overcrowded, over 4,300 in private rented accommodation and the remaining 4,600 were homeowners.¹⁴ By 2011 under 6,000 overcrowded households were living in social rented accommodation (17% of all social

⁸https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/809439/Local_Authority_Housing_Statistics_data_returns_2017_to_2018.xlsx

⁹ <https://www.gov.uk/government/statistical-data-sets/live-tables-on-rents-lettings-and-tenancies>

¹⁰ https://www.london.gov.uk/sites/default/files/london_shma_2017.pdf

¹¹ https://www.london.gov.uk/sites/default/files/gla_migrate_files_destination/Final%20overcrowding%20report%20-%20print%20version.pdf

¹² <https://data.london.gov.uk/dataset/census-2001-key-statistics-19-rooms-and-amenities>

¹³ <https://data.london.gov.uk/download/2011-census-housing/a469ab1b-ff43-482d-bbe1-fe97581e5fd1/2011-census-trends-in-overcrowding.pdf>

¹⁴ https://www.nomisweb.co.uk/census/2001/ST053/view/1946157254?rows=c_tenhuk11&cols=occrat

rented homes) and over 5,600 were living in the private rented sector (19% of all private rented homes).¹⁵

- 7.3 This change is particularly challenging. Households that are overcrowded in the private sector lack the security of tenure and affordability that a social home provides, which limits their ability to find alternative accommodation. In addition, if a low-income household claiming Local Housing Allowance requires a property larger than a 4 bed, it is likely that only social housing will be affordable due to the four bed claim maximum for LHA.
- 7.4 There were over 9,340 households on the housing register at the end of September, of which 528 were overcrowded by 2 bedrooms or more and 4,567 were overcrowded by 1 bedroom. Overcrowded by 1 bed is the single largest re-housing reason for households on the register.
- 7.5 Census data suggests that more households in Lewisham are overcrowded than those that are on the housing register. Given the scale of the challenge, the council makes best use of its resources by focussing on those that are overcrowded and have applied to join the housing register.
- 7.6 Roughly 33% of overcrowded households on the housing register (1,670 households) are currently renting privately. The remaining 67% (3,425) households already have a social tenancy. Whilst the council supports all households on the housing register through the allocations scheme, annual lettings plan amongst other programmes, there are more options for households that already have a social tenancy. This includes opportunities such as mutual exchanges, where two social housing residents mutually agree to exchange their homes to the benefit of both households. These residents also benefit from chain lettings schemes, as well as the inherent benefits to households of already having the security and affordability of a social tenancy. More detail is given in section 10 of this report.

8 Allocations & Lettings

- 8.1 The Lewisham Allocations Scheme sets out the way the council allocates a limited number of properties to a large number of households in need as fairly as possible. The scheme details how the council meets its statutory obligations to provide certain households with reasonable preference, defines what other households are able to join the register and for what reasons, as well the size and type of property that households are eligible to bid for.
- 8.2 The Lewisham Allocations Scheme awards a band 2 priority to any household that is overcrowded by more than 2 bedrooms as per the bedroom standard. A band 3 priority is awarded to any household that is

¹⁵ <https://data.london.gov.uk/download/2011-census-housing/a469ab1b-ff43-482d-bbe1-fe97581e5fd1/2011-census-trends-in-overcrowding.pdf>

overcrowded by 1 bedroom as per the bedroom standard. Lewisham does not currently award banding priority as a result of meeting statutory overcrowding definitions. This is discussed further at section 8.11 – 8.14 of this report.

- 8.3 Given the wide range of housing need in Lewisham, careful consideration is given to the allocation of the limited number of social homes available. This is defined in the annual lettings plan, which is presented to Housing Select Committee and agreed by Mayor and Cabinet yearly. The plan allocates properties to groups on the housing register based on the expected supply of properties and demand for properties amongst those groups.
- 8.4 To date in 19/20 we have had 506 social lets. Over the same period in 18/19 there were 570 social lets. There are currently over 9,500 households on the housing register, this has been steadily increasing over the course of the year. Over 2,300 on the housing register are homeless.
- 8.5 There are a substantial range of pressures on this limited stock and the council responds according to these pressures. For example, there has been a substantial increase in the level of homelessness and the numbers of families living in shared bed and breakfast in Lewisham in recent years, as detailed in previous reports provided to the committee.¹⁶ Currently, there are over 730 families in nightly paid B&B. The grant funding from central government is not sufficient to sustain this level of nightly paid accommodation alongside the other temporary accommodation cost pressures. In light of this pressure, the council has responded by allocating an increased number of lets to homeless households in the annual lettings plan, whilst maintaining supply for other priority groups.
- 8.6 The properties allocated to homeless households are predominantly 2 and 3 bed properties. Almost 4,000 of the 5,095 households that are overcrowded on the housing register also require a 2 or 3 bedroom property. Any changes to the allocation of these properties would cause a sharp and substantial increase the number of households in temporary accommodation.
- 8.7 The council allocates a substantial proportion of all social housing that becomes available to overcrowded households on the housing register. 549 homes were let to overcrowded households between 2014/15 and 2018/19, roughly 10% of all homes that became available.
- 8.8 The average length of time on the register for an applicant currently registered as overcrowded by 1 bed is 7.4 years and for an overcrowded by 2 bed household it is 7.2 years.

¹⁶ <http://councilmeetings.lewisham.gov.uk/ieListDocuments.aspx?CId=135&MId=5030&Ver=4>

8.9 In 18/19 those overcrowded households who were successful in moving had been on the housing register for an average of 2.9 years. This figure represents the length of time an applicant is actively bidding on all available properties before they are successful. This is substantially below the average length of time that such households are on the register for in total. The below table shows the length of time that successful applicants were on the housing register for over the past 5 years.

Table 3 – Number of years for which a successful applicant was on the housing register

	14/15	15/16	16/17	17/18	18/19
Decant	2.5	2.2	2.5	2.2	4.3
Homeless Prevention	0.6	1.0	1.7	1.9	2.1
Leaving Care	1.7	1.0	0.8	0.5	0.3
Medical	2.0	2.4	2.4	2.4	2.3
Overcrowded By 1 Bed	3.0	3.2	3.3	4.6	2.9
Overcrowded by 2 bed or more	2.2	2.3	2.3	2.3	2.9
Priority Homeless	1.8	1.8	2.3	2.3	2.5
Supported Housing Move On	0.2	0.2	0.1	0.1	0.2
Under Occupiers	6.5	5.3	4.7	2.6	3.3
Total Average	2.1	1.9	2.0	1.9	2.1

8.10 The length of time successful overcrowded by 1 bed households are on the register for is relatively short. This is reflective of such households bidding for properties that were less in demand than others that became available. The average number of bids for any property in 2018/19 was 74, whereas properties that had a successful overcrowded by 1 bed applicant had on average 21 bids. As a consequence of a smaller pool of bids, households with a shorter register date and lower banding are able to access these properties.

8.11 However, most households that are on the register as overcrowded have not bid for a property in 2019. The below table shows the number of households that have been on the register for over 3 months that have not registered a bid in 2019.

Table 4 – Number of households that have bid for a property in 2019

	Yes	No
Overcrowded By 1 Bed	1888	2636
Overcrowded by 2 bed or more	221	295

The statutory definition applied to overcrowding in Lewisham

8.12 The Lewisham allocation scheme follows the bedroom standard, as defined at point 5.7, 5.8 and 5.9 of this report and as recommended by MHCLG as the method of defining overcrowding. This method of defining overcrowding is more generous than the statutory room standard,

meaning that more households are able to register on our housing waiting list than if the statutory definition alone was used.

Severely overcrowded households (overcrowded by 2 beds or more) are allocated band 2 in line with the allocations policy. In most cases these households would also be defined as statutory overcrowded, as per the example below:

8.13 *Example: Couple with 4 children, two sons aged 16 and 13, and two daughters aged 7 and 11, living in a 1 bedroom property with a living room.*

	Standard	Application of standard	Outcome
MHCLG Definition	Bedroom standard	<p>The household require a 3 bedroom property. The standard considers the couple to need 1 room, the two sons to need 1 room, and the two daughters to need 1 room.</p> <p>The property is considered to have 1 bedroom, as the living room is not counted as a bedroom.</p>	Overcrowded by 2 bed.
Statutory Definition	Statutory: Room standard	<p>The room standard disregards individuals under 10, and only considers mixed-sex occupation of non-couples. It also places no limit on numbers of individuals of the same sex sharing a room so would see two rooms as the requirement to split the household between sexes.</p> <p>Given the statutory standard views living rooms as bedrooms, this property would be considered to have the requisite two rooms for the two sexes that live there.</p>	While not overcrowded under the room standard, the space standard is failed so the household are overcrowded by 2 bed.
	Space standard	<p>The standard considers the couple to be two persons, each son and the oldest daughter, being 10 or older, to be a person, and the 7 year old daughter to count as 0.5 persons. This totals 5.5 persons.</p> <p>The property is considered to be 2 bed, as the living room is counted as a bedroom under the statutory definition, and the standard allows for 3 persons in a 2 bed, 5 persons in a 3 bed and 7.5 in a 4 bed.</p>	

8.14 Around half of London boroughs currently take into account statutory overcrowding in their allocations scheme with the others operating as Lewisham does by adopting the Bedroom standard. In order to correctly apply the statutory overcrowding standard, room size must be taken into account. This would require significant resource to verify the size of

rooms and the suitability for certain rooms to be counted under the standard. Due to limited resource within the Council, and the resource that would be required from registered providers, this would be unfeasible to undertake.

- 8.15 An issue that has been highlighted by this review relates to differences in the way properties are categorised in terms of available bedspaces across providers. For Lewisham Homes, RB3 and Phoenix properties, properties are categorised by numbers of bedrooms. All other RPs categorise by the number of bedspaces. This means there is a risk for the Lewisham Homes, RB3 and Phoenix homes that properties may be let to households who have a greater bedspace need than the property contains. This issue will be addressed over the next financial year to ensure that all properties will be advertised by bedspace.

9 Lettings summary

- 9.1 As in previous years a comprehensive update on all lettings in the year will be presented to committee in March alongside a proposed annual lettings plan for 2020/21.
- 9.2 As at the end of December over 510 properties had been let to households on the register.
- 9.3 This represents 50 fewer lets than were available over the same period in 2018/19. A decrease in the number of lets available places additional pressure on the service to ensure that those lets that are made available are utilised in the most effective way possible.
- 9.4 62 of the households that have been successful in bidding for a property in the year to date have been on the register for overcrowding. Over the same period in 2018/19, 43 households that were on the housing register as a result of overcrowding were successful in bidding for a property.
- 9.5 Table 5 details where the successful household has applied from and the property size they were successful in bidding for.

Table 5 – Number of properties successfully let to households on the housing register as at the end of December

	Studio or 1 Bed	2 Bed	3 Bed	4 Bed	Total
Homeless Applicant	48	80	44	5	177
Transferring Tenant*	37	32	33	7	109
<i>:of which overcrowded</i>	0	8	22	7	37
Applicant from PRS	194	34	5		233
<i>:of which overcrowded</i>	9	12	4	0	25

*this is an applicant who currently has a social tenancy.

10 How Lewisham approaches overcrowding

- 10.1 The council allocates a substantial proportion of all social housing that becomes available to overcrowded households on the housing register. 549 homes were let to overcrowded households between 2014/15 and 2018/19, roughly 10% of all homes that became available.
- 10.2 The Building for Lewisham programme will deliver a new supply of social housing for use in tackling housing need for those on the housing register. The council works extensively with partners to maximise the number of social lets available to those in need in Lewisham.
- 10.3 The council has been working to try and increase the number of lets to transferring tenants, to create 'churn' through a chain-let process. Many applicants on the housing register are coming from Temporary Accommodation and the Private Rented Sector. When these tenants are successful, they do not release a social property. When an applicant who is already in social housing moves, they start a 'chain' of lets.
- 10.4 To understand how this can work, a pilot has been initiated with 32 new build properties on the Longfield Crescent and Dacre Park developments. A lettings plan was developed for these properties that allocated 50% of the units to transferring tenants and the remaining 50% as per the annual lettings plan. The properties advertised to transferring tenants were prioritised for under occupiers and overcrowded households to help achieve churn.
- 10.5 The pilot is still in progress and as such the final results are not yet available. When last analysed, the original 32 properties had enabled 49 households to move of which 30 were transferring tenants. 14 of those transferring households were overcrowded households. Table 6 shows the breakdown of properties let to households by applicant type and bedsize as at the middle of November. Analysis on the impact of this pilot is ongoing. The results will inform the use of similar approaches in the future.

Table 6 – Number of properties let as at mid-November through the chain lettings pilot

	Studio	1 Bed	2 Bed	3 Bed	4 Bed	Total
Applicant from PRS		8	1	1		10
Homeless Applicant		1	1	7		9
Transferring Tenant		4	17	8	1	30

- 10.6 The council operates a Fresh Start scheme that helps households who are homeless or who are overcrowded and wish to relocate to another area to find private rented accommodation in that area.

- 10.7 Given the pressures on the housing register, one of the most effective ways that households can move is through a mutual exchange. The council encourages households seeking a mutual exchange to register with House Exchange, a national platform facilitating mutual exchanges. There were over 1,000 properties of varying sizes listed within 1 mile of Lewisham as at the end of October.
- 10.8 Analysis of the data currently held on the housing register demonstrates that there is inconsistent and absent data points, particularly around the additional rooms in a property such as living rooms and dining rooms. There are a vast number of households who have not bid recently, or for many years, and for whom their overcrowding application may be out of date.
- 10.9 As part of the new integrated housing system, which is being introduced in Spring 2020, officers will be using this new system to help facilitate more accurate and up to date information about overcrowding. This will assist in making future decisions around allocating and prioritising overcrowded households. This would enable households to ensure that their data was up to date.

11 Conclusion

- 11.1 This report has considered the current overcrowding pressures in Lewisham. This has been set in the context of the various definitions of overcrowding, the allocation and lettings of properties to relieve overcrowding, and the other demands placed on the very limited affordable housing available in Lewisham.
- 11.2 A vast number of overcrowded households are not actively bidding for properties. Successful applicants who move due to overcrowding are waiting on average 2.9 years to move. This is when a household is actively and regularly bidding on all available properties, including those that are less desirable to other applicants.
- 11.3 The allocation of properties directly to overcrowded households is defined in the annual lettings plan, agreed yearly by Mayor and Cabinet. Changing the number of properties allocated to this group will have ramifications for other groups. Officers are exploring potential ways to increase lets to transferring tenants through creating churn with chain lets that would allow access to moves but not at the cost of other groups like homeless households.
- 11.4 The current way in which overcrowding is measured in Lewisham – the Bedroom Standard – is more generous than the statutory overcrowding measure, which would require significant resource to meaningfully incorporate the statutory process across the current housing register.
- 11.5 Analysis of the current housing register has demonstrated that there are improvements that are needed to ensure that bedrooms are being

categorised correctly, and to ensure applications are up to date with current information about a households size and needs.

12 Financial Implications

- 12.1 This report updates Housing Select Committee with the details on overcrowding in Lewisham. As such, there are no direct financial implications arising from this report.
- 12.2 However, it should be noted that changes to how allocations are made or changes to the annual lettings plan, which affect allocations to homeless families, could put additional pressure on nightly paid accommodation costs through increased length of stay or increased numbers accommodated in this form of TA.

13 Legal Implications

- 13.1 See footnote and for further Notes on statutory overcrowding see Part X Housing Act 1985 [as amended]¹⁷
- 13.2 Section 166A requires housing authorities in England to allocate accommodation in accordance with a scheme which must be framed to ensure that certain categories of applicants are given reasonable preference for an allocation of social housing. Section 166A(9) includes a new requirement for an allocation scheme to give a right to review a decision on qualification in s.160ZA(9), and to inform such affected persons of the decision on the review and the grounds for it. This is in addition to the existing right to review a decision on eligibility. Section 166A(12) provides that housing authorities must have regard to both their homelessness and tenancy strategies when framing their allocation scheme. The requirement for an allocation scheme to contain a statement of the authority's policy on offering a choice of accommodation or the opportunity to express preferences about their accommodation is retained. (s.166A(2)). However, the requirement to provide a copy of this statement to people to whom they owe a homelessness duty (under s.193(3A) or s.195(3A) of the 1996 Act) is repealed by s.148(2) and s.149(3) of the Localism Act 2011. This is because, following the changes to the main homelessness duty made by the Localism Act 2011, there can no longer be a presumption that the homelessness duty will be brought to an end in most cases with an allocation under Part 6.
- 11.3 The European Convention on Human Rights states in Article 8 that "Everyone has the right to respect for his private and family life, his home and correspondence". The Human Rights Act 1998 incorporates the Convention. Whilst it does not, however, mean that everyone has a *right* to a home, the provision by an Authority of a relevant proactive Allocations Policy and Lettings Plan does assist to reinforce the Article 8 principles.

¹⁷ <http://www.legislation.gov.uk/ukpga/1985/68/part/X>

- 11.4 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 11.5 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
- 11.6 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to advance equality of opportunity or foster good relations. The Equality and Human Rights Commission issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>
- 11.7 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
- The essential guide to the public sector equality duty
 - Meeting the equality duty in policy and decision-making
 - Engagement and the equality duty
 - Equality objectives and the equality duty
 - Equality information and the equality duty

The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>

14 Environmental Implications

14.1 There are no specific environmental implications to this report.

15 Equalities Implications

15.1 The equalities implications of the Council's approach to allocating stock are considered as part of the annual lettings plan which is produced yearly. This provides detail as to the anticipated impact the plan will have, how this will be mitigated if appropriate, and the actual outcome of previous lettings periods.

15.2 Any change in the way that properties are allocated would have a knock-on impact on other groups that are on the register. A detailed exploration of what changes might benefit or disadvantage certain groups, and how this would be accounted for, would need to be undertaken before any changes were made.

15.3 However, given the wide range of protected characteristics shared by households on the housing register it is likely that any positive or negative impact of changes to the policy would be balanced out in a broad sense.

15.4 The council will use the introduction of a new housing system as an opportunity to improve the efficacy of data capture for equalities monitoring.

16 Crime and Disorder Implications

16.1 There are no specific crime and disorder implications to this report.

17 Background reports and report author

17.1 For further information please contact Lee Georgiou on Lee.Georgiou@Lewisham.gov.uk or 0208 314 7413.