



MORAY COUNCIL

HOUSING AND PROPERTY SERVICES

HOMELESSNESS POLICY

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Approved by Moray Council on 30 June 2021

Updated on 29 November 2022 in accordance with the Homeless Persons (Suspension of Referrals between Local Authorities) (Scotland) Order 2022

1. Scope of the policy

- 1.1 The scope of this policy is to provide clear and transparent detail regarding the activities and responsibilities of the Council to people who are homeless or threatened with homelessness.
- 1.2 Homelessness is not a lifestyle choice that people make; it can happen to anyone, and is the most extreme form of housing need. It is rarely just a 'bricks and mortar' problem - it is a complex issue.
- 1.3 The Council aims to provide realistic solutions to address housing need in order to maximise housing options and alleviate homelessness through its commitment to improve on prevention measures.
- 1.4 For the purposes of this policy, those who use the service, including customers, service users and customers of temporary accommodation will be referred to as customers.

2. Strategic context

- 2.1 The Homelessness Policy will assist the Council to deliver the Moray Local Housing Strategy, Moray 2027, the Council's Corporate Plan, priorities from the Moray 10 Year Plan and the Health and Social Care Moray Strategic Plan.
- 2.2 The Homelessness Policy will assist the Council to meet its strategic priority within the Local Housing Strategy which is "to prevent and alleviate homelessness."
- 2.3 Addressing homelessness requires a multi-disciplinary, multi-agency approach both within (corporate) and across (partnership) individual organisations, agencies or sectors. The Council is committed to effective partnership working on both a strategic and operational level, with other Council services, external agencies and landlords.

3. Objectives and principles of the policy

- 3.1 The overall aim of Homelessness Policy is to prevent and alleviate homelessness in a sensitive but effective manner and when homelessness does occur, to provide responsive and sustainable solutions which minimise its impact on affected households.
- 3.2 The specific objectives of the Homelessness Policy are to:
 - maximise housing options and early intervention mechanisms;
 - reduce the duration of homelessness when it does occur;
 - ensure that where temporary accommodation is required, it is of an acceptable standard and is affordable;
 - ensure that housing solutions are sustainable through the provision of housing support and other relevant services; and

- promote and engage in joint working arrangements with other Council services and external partners and agencies.

3.3 The principles of the Homelessness Policy are to:

- comply with legislation and guidance and promote best practice;
- ensure consistency in the provision of services by providing staff training and implementing detailed procedures and agreed practices uniformly across the service;
- deliver good quality services which are efficient and effective; and
- provide services that adhere to the principles of equal opportunities.

4. The legal and regulatory framework

4.1 Moray Council will ensure that the policy complies with current legislation, promotes good practice and has regard for:

- the Code of Guidance on Homelessness – (Interim Update) November 2019 (Code of Guidance);
- Meeting the Best Interests of Children Facing Homelessness Guidance (2011) and Getting It Right For Every Child;
- the Prevention of Homelessness Guidance (2009);
- Housing Support Duty to Homeless Households - guidance for local authorities; and
- Housing Options Guidance 2016.

4.2 The primary legislation relating to the provision of homelessness services is the Housing (Scotland) Act 1987, as amended by the Housing (Scotland) Act 2001 and the Homelessness etc. (Scotland) Act 2003. Part II of the Housing (Scotland) Act 1987, introduced statutory duties on Local Authorities to assist those who are homeless or threatened with homelessness (potentially homeless), including providing accommodation in certain circumstances. Local Authorities will make inquiries into the circumstances of applicants to satisfy themselves whether the applicant is homeless or potentially homeless. Thereafter, the Local Authority may:

- use a discretionary power provided by the legislation, as it thinks fit, to assess whether the applicant has made themselves intentionally homeless (Section 28 of the Housing (Scotland) Act 1987); and
- assess whether the applicant has a local connection with another authority in Scotland, England or Wales.

4.3 Section 32B of the Housing (Scotland) Act 1987 (as inserted by the Housing (Scotland) Act 2010, section 158) places a statutory duty on local authorities to assess the need for housing support services. The types of housing support services are prescribed by the Housing Support Services (Homelessness) (Scotland) Regulations 2012. If the Council has reason to believe that a customer may be in need of one

or more of these services, it must assess whether the customer, or any person residing with the customer, is in need of such support. If so, the Council must ensure that the service is provided to the person who needs it.

- 4.4 The Children (Scotland) Act 1995 requires the Council to assess the needs of young people formerly “looked after” by the authority, and provide housing and support solutions to enable them to move on to independent living. The Children and Young People (Scotland) Act 2014, extends care leavers' entitlement to advice, guidance and assistance up to and including the age of twenty-five years old.
- 4.5 The Council adheres to other relevant legislation, including the Matrimonial Homes (Family Protection) (Scotland) Act 1981, the Data Protection Act 2018 and General Data Protection Regulations, the Human Rights Act 1998, the Equality Act 2010 and the Equality Act 2010 (Specific Duties)(Scotland) Regulations 2012.
- 4.6 This policy is concerned with creating equal opportunities for people who are excluded from a most basic human need – a home of their own. The Council recognises that the service deals with a diverse range of people including those who are vulnerable and in highly stressful personal circumstances. The Council will therefore:-
- ensure that all individuals and household are treated sympathetically and with courtesy and respect;
 - be sensitive and respond to the individual needs and circumstances of the people using the services; and
 - monitor services and the outcomes for people using them, to ensure that they are fair and responsive to needs.
- 4.7 The Council will seek to ensure that all applications are assessed in accordance with its duties under the Equalities Act 2010. Full consideration will be given to the Council’s Public Sector Equality Duty (PSED) when assessing the applications. This requires public authorities to: eliminate discrimination, harassment and victimisation; advance equality of opportunity; and to foster good relations between persons who share a relevant protected characteristic and those who do not. The Council will also have due regard while considering the circumstances of the case where the applicant is a part of a protected group under this legislation, and detailed in section 4.10 below, prior to reaching any decision or outcome.
- 4.8 At each stage of the decision-making process, officers are required to have the equality duty in mind and focus very sharply on whether an applicant has an actual or probable disability, or other protected characteristic (as defined by the Equality Act 2010), which need enhanced consideration. Where an applicant has a protected

characteristic, inquiries must be even more careful, and fuller reasons must be given for a negative decision.

- 4.9 To support the needs of customers whose first language is not English, the Council will provide translation and interpretation services when needed. The Council will ensure that information is accessible and available in other formats such as large print, tape and Braille, as required.
- 4.10 The Council will endeavour to ensure that no individual is discriminated against on grounds of sex or marital status, on racial grounds, or on grounds of disability, age, sexual orientation, language or social origin, or other personal attributes, including beliefs, or opinions, such as religious beliefs or political opinions.

Regulatory Requirements

- 4.11 In planning and delivering homelessness services, the council will observe the requirements of the Scottish Housing Regulator as set out in the 'Regulation of social housing in Scotland' Framework. This Framework includes how the SHR will regulate housing and homelessness services provided by local authorities. More information of the role of the Scottish Housing Regulator can be found on its website at www.scottishhousingregulator.gov.uk.
- 4.12 In addition to the Scottish Housing Regulator, the council must meet the standards set by the Care Inspectorate for its residential and serviced accommodation. More information on the role of the Care Inspectorate can be found on its website at www.careinspectorate.com.

5. Approach to homelessness in Moray

- 5.1 This policy recognises that homelessness is not just a housing issue. There are a wide variety of reasons why people become homeless or are threatened with homelessness. There can be a single reason or a multiple chain of circumstances that are the causes of homeless risks. Some reasons are outside of an individual's control, such as employment changes, or personal circumstances, such as ill health.
- 5.2 The delivery of the homelessness service is continually reviewed and improved to ensure that it is robust, effective and responsive to the current environment and local context.
- 5.3 The key strategic focus to addressing homelessness in Moray is on housing options. The process starts with the provision of housing information and advice when someone approaches the Council with a housing problem. This approach promotes early intervention and explores all possible tenure options, including social housing, the private rented sector and owner occupation. Trained officers will

examine and assess an individual's options, solutions and choices in the widest sense.

- 5.4 To facilitate early intervention, the Council has discharge protocols and liaison mechanisms in place which ensure that homelessness due to households or individuals leaving institutions (hospital, prison, the armed forces, local authority care or interim supported accommodation) is minimised. The Council will also ensure that advance planning for discharge from institutions and appropriate assessments are carried out in a timely manner.
- 5.5 Awareness raising throughout Moray informs customers of the importance of contacting the Council as soon they find themselves in difficulty that could result in homelessness or a risk of homelessness.
- 5.6 The alleviation of homelessness provides positive impacts and outcomes for individuals, households and the local community. The causes of homelessness are usually a combination of both personal and societal issues. Homelessness can have detrimental and long term effects on households and communities.

6. Accessing the service

- 6.1 The Council will ensure that the homelessness services are accessible to any person who requires assistance, 24 hours a day and 7 days a week.
- 6.2 The service is accessed by the Council's customer service points and contact centre which receive initial enquires and will either provide a response to an enquiry or refer the enquiry to the appropriate team or officer.
- 6.3 In an emergency, out with normal working hours, the Council provides advice and assistance through the Council's Out of Hours Service. The availability of this service is publicised at strategic places throughout Moray and can be accessed using the Out of Hours phone number.

7. Information and advice

- 7.1 The Council will provide free comprehensive information, advice and assistance detailing the full range of options and services available to people who are in housing need, or are homeless or threatened with homelessness. This will explain the context and any constraints within which the service works in order to assist customers to make informed decisions from the range of choices available to them.

7.2 The Council will ensure that information resources are reviewed regularly and updated and are readily available both online and at key strategic public places.

8. Provision of support to vulnerable people

8.1 Being able to live independently in one's own home requires much more than just securing accommodation. Not only do people need accommodation which is suitable to their personal circumstances (e.g. due to household makeup, disability, or access to services), but they may need care and support to enable them to develop the skills to sustain their accommodation or cope with the limitations of poor health or incapacity.

8.2 The Council recognises that people who approach the service may have additional support requirements. In accordance with the Housing Support Policy, the Council will ensure that services are available to households who are homeless or threatened with homelessness and who have an identified need for support. Failure to do so may compromise a tenancy and in some circumstances may lead to an individual experiencing difficulty in living independently.

8.3 Staff from the Housing and Property Service will work with a range of other services and agencies to ensure that vulnerable households receive appropriate support to:

- help them to avoid becoming homeless;
- support them through any period of homelessness; or
- assist them to resettle and avoid homelessness recurring in the future.

9. Repeat homelessness

9.1 Each year, a number of people will become homeless again for reasons such as housing debt or abandonment. The Council acknowledges that in many cases there are underlying and unaddressed issues, such as poor budgeting skills, that undermine a person's capacity to maintain accommodation in the long-term. If these underlying issues are not addressed, customers may repeatedly fail to sustain their housing and may find it increasingly difficult to access housing (e.g. because of previously accrued housing related debt).

9.2 The Council will endeavour to identify the vulnerability factors in each individual case that may lead to further presentations. By assisting customers to address these issues, it is hoped that recurring homelessness will be reduced and ultimately prevented. The type of assistance provided may vary from, housing support to signposting to money advice services.

10. Avoidance of screening

- 10.1 The Council will avoid screening people who approach the service and will ensure that no-one is refused the right to make a homeless application. Care will be taken to ensure staff do not carry out any informal 'first screening', either deliberately or unwittingly. Screening is defined as preventing, deterring or discouraging a person from making an application. The Council will ensure that staff are appropriately trained.
- 10.2 In accordance with the Housing (Scotland) Act 1987 (as amended), any person aged 16 or over who wants to make a homeless application has the right to do so. The Council will ensure that information about this is clearly visible in offices where people in housing crisis are likely to present and in other locations across Moray. The Council has a duty to accept applications from people who are homeless and will be homeless within two months, as defined by the Housing (Scotland) Act 2001.
- 10.3 Every person who contacts the Council with concerns about security of their tenure, potential or actual homelessness will be advised of their right to make a homeless application.

11. Interview standards

- 11.1 Every person will be treated with respect, courtesy and in a non-judgemental manner.
- 11.2 Where possible, customers will be advised prior to an interview that they have the right to be interviewed by a member of staff of the same sex and that they have a right to have a friend, relative or representative present at the interview.
- 11.3 Interviews will take place in a private interview room and at a time and location convenient both for the customer and their personal representative or, if required, interpreter.
- 11.4 Customers will be encouraged to disclose all relevant information. Any information provided will be used in a non-prejudicial way and in complete confidence. All information provided by a customer will be treated confidentially and will only be shared in accordance with the Data Protection Act 2018 and General Data Protection Regulations.
- 11.5 Every customer will receive a clear and simple explanation of this policy and on the Council's procedures for maximising housing options and assessing homelessness applications.

12. Housing options

- 12.1 The Council utilises a housing options approach, delivered by a specialist housing options team. The aim of the team is to provide information and advice in an attempt to resolve housing issues and prevent them escalating.
- 12.2 The housing options team use a person-centred approach to assess a customer's needs and abilities. The intention of this is to:
- identify and address the underlying cause of homelessness or potential homelessness;
 - identify housing options with the customer which suit their circumstances;
 - provide information and advice and realistic housing solutions; and
 - avert a housing crisis and avoid the customer becoming homeless.
- 12.3 Customers are encouraged to approach the service for assistance as soon as a risk to their current housing situation is identified. This early intervention will enable the Council to respond effectively to the presenting issues identified. The earlier the intervention, the greater likelihood there is of a successful resolution. This in turn will increase the opportunity to avoid any detrimental impact on the customer and their household.
- 12.4 Depending on the customer's circumstances, it may be possible to resolve housing problems without them becoming homeless. An initial housing options enquiry will be completed to establish the extent of a customer's housing crisis and determine if there are any intervention actions that could be taken to allow them to remain in or return to their current accommodation. This will only apply where the Council is satisfied that the accommodation is reasonable to continue to occupy. An enquiry may include an interview with customers. Where possible, interviews will be offered on the same day, or on the next working day, that a customer contacts the Council.
- 12.5 Due to the nature of homelessness, the housing options team may be required to take a lead role in co-ordinating assistance from partner agencies and services in an attempt to secure a successful outcome. Where necessary, the Council will refer customers to other independent providers of housing, financial or legal services and can offer access to mediation services for family and neighbour disputes and harassment.

13. Inquiries into decision making

- 13.1 A possible outcome following involvement by the housing options team is that a customer decides to submit a homelessness application.

Every customer will be informed of their right to make a homeless application.

- 13.2 The Council's assessment of homelessness applications will be based on statutory requirements and any subsequent changes to legislation. The enquiry process involves collating all relevant information in relation to the customer's individual/personal circumstances to enable a holistic assessment of the case. The Council will make decisions in accordance with the Housing (Scotland) Act 1987, as amended by the Housing (Scotland) Act 2001 and the Homelessness etc (Scotland) Act 2003 and the Code of Guidance on Homelessness.
- 13.3 The Council is required by law to undertake enquiries into homelessness in a specific order, starting with whether the customer is eligible to apply for assistance, then whether they are homeless, as defined by the legislation. The Council may, if it thinks fit, use the discretionary power set out in Section 28 of the Housing (Scotland) Act 1987 (as amended) to assess whether a person has become homeless or threatened with homelessness intentionally and if they have a local connection with Moray. If the Council opts to use the discretionary power to consider intentionality it will advise the applicant accordingly.
- 13.4 In accordance with Section 24 of the Housing (Scotland) Act 1987 (as amended), a person is homeless if he or she has no accommodation in the United Kingdom or elsewhere which he or she is entitled or permitted to occupy in one of the following ways:-
- by virtue of an interest in it (for example as an owner or customer); or
 - by right or permission, or an implied right or permission, to occupy (for example as a lodger or as a member of an existing household); or by virtue of some protection given by law; or
 - by virtue of a court order.
- This applies to any homeless customer and any other person who would normally reside with them. It also covers the situation where a split household is regarded as being homeless if they would normally reside together, but are not doing so as a consequence of their accommodation situation.
- 13.5 A person is defined in the Housing (Scotland) Act 1987 (as amended) as being threatened with homelessness if he or she is likely to become homeless (as defined above) within two months.
- 13.6 Any customer who is threatened with homelessness will be offered an interview within five working days and customers who are homeless will be offered an interview on the day of their approach or the next working day.

13.7 Where necessary, the Council may request information to support a customer's case and to assist in reaching a decision on homelessness. Examples of such information include:-

- a valid notice to quit (but will not necessarily require that an order or decree for repossession has been obtained); and
- financial information to confirm income remaining after payment of housing costs and any changes in household income.

13.8 The Council will never seek information from an alleged perpetrator of abuse, nor will the Council insist that "proof" must be provided by a third party where there is alleged abuse. Officers will work with Social Work or other specialist agencies, where appropriate, to assist investigations and to support the customer in such cases.

Persons Subject to Immigration Control

13.9 The rights of non-UK nationals to housing and homelessness provisions are a complex area. The Council will ensure that applications received from non-UK nationals are processed in accordance with legislation. Temporary accommodation will be provided pending the outcome of enquiries into eligibility.

14. Reasonableness of occupation

14.1 The Council will investigate whether accommodation is available to the customer, whether it is suitable for them to remain and may ask the customer to provide evidence, depending on their situation.

14.2 In reaching a decision, the Council will consider each case holistically, based on its individual merits including (but not exhaustively):

- the health and safety of the household;
- any other statutory duty the Council has towards the household, including the public sector equality duty;
- overcrowding and condition of existing accommodation i.e. unfitness, dampness and condensation etc;
- information already obtained from functional assessment applications and assistance requested to support functional assessment applications;
- fear of domestic abuse; and
- fear of violence.

14.3 In accordance with legislation, a person will be considered to be threatened by homelessness or homeless where accommodation available to him/her is unreasonable to occupy because:

- the accommodation is below the tolerable standard (BTS);
- the person is living in bed and breakfast accommodation;
- the person is living in a hostel or other accommodation such as a women's refuge, which is not intended to provide long-stay accommodation;

- there is external violence, including racial or other harassment;
- there is a risk of domestic violence;
- continued occupation of the accommodation poses a substantial risk to a person's health;
- the accommodation is impracticable for a particular person because of his or her physical infirmities or disabilities;
- he or she cannot secure entry to it;
- he or she has a mobile home, caravan, houseboat or other moveable structure but has no place where he or she is entitled or permitted to put it or moor it and to live in it;
- the accommodation is both overcrowded within the meaning of section 135 of the Act **and** may endanger health;
- it is not permanent accommodation, and a local authority had a legal duty to house the person at the time he or she occupied it;
or
- as a result of an emergency e.g. fire or flood.

15. Assessment of intentionality

- 15.1 Where a person has been found to be homeless or threatened with homelessness, the Council can decide to use the discretionary power under Section 28 of the Housing (Scotland) Act 1987 (as amended) Act, as it thinks fit, to investigate whether the applicant became homeless intentionally. The Council will ensure that the individual circumstances of the applicant are considered holistically on a case by case basis before making a decision to use its power to investigate potential intentionality. Any decisions regarding whether the applicant is intentionally homeless will be made based on all of the relevant information regarding the applicant, the law and the criteria stated in the Code of Guidance and the applicant will be advised the Council has opted to consider intentionality
- 15.2 The intentionality criteria allows the Council to distinguish between the case of a person who has become homeless through no fault of their own, and the case of a person, who through deliberate action or inaction, has contributed to their homelessness. Whether or not someone is found to be intentionally homeless the local authority should seek to find solutions to the person's homelessness and offer support to address any difficulties that they face.
- 15.3 The circumstances in which a person is to be regarded as having become intentionally homeless or threatened with homelessness are set out in Section 26 of the Housing (Scotland) Act 1987, as amended. A decision of intentionality will only be made where there is clear evidence that:
- a person has become homeless, or threatened with homelessness, because they have deliberately done something,

or failed to do something, while being aware of all of the relevant facts, that resulted in the loss of their secure accommodation;

- it would have been reasonable for the person to have continued to occupy their previous or current accommodation; and
- they were aware of the consequences of his/her actions.

15.4 There will be no automatic presumption of intentionality. Each case will be assessed on its own merit, taking into account the specific circumstances associated with each case. The Council must satisfy itself whether an applicant became homeless or threatened with homelessness intentionally. There is no onus on the applicant to satisfy the Council that they did not become homeless intentionally. Consideration will also be given to the less obvious reasons which may have contributed to the customer's homelessness and inquiries will take account of any relevant factors such as:-

- the threat or occurrence of domestic or external violence;
- mental health problems;
- financial difficulties;
- substance misuse issues;
- age of the customer; and
- health related issues.

15.5 The following are examples when intentionality may be considered:

- voluntary termination of property;
- non-payment of rent or mortgage;
- failure to maintain and conduct a satisfactory tenancy;
- voluntary relinquishment or sale of property without first ensuring that alternative permanent accommodation is available; and
- failure to follow reasonable advice which would have prevented homelessness.

15.6 If the customer is in temporary accommodation they will be required to leave following a reasonable period of time. Consideration will be given to the household's circumstances when determining what a reasonable period is.

15.7 Where the Council decides that a customer is homeless but that they became homeless intentionally, the Council will provide them with advice and guidance in finding accommodation. During this period the customer will be expected to make every effort to find alternative accommodation and may be asked to evidence what they have done to secure accommodation.

15.8 Where the customer is willing to engage, Officers will work with them in order to address the issue which resulted in them becoming intentionally homeless and provide better outcomes (see section 19).

15.9 Only after the Council is able to demonstrate that it has given the applicant reasonable opportunity, can it end the provision of temporary accommodation and record that it has discharged its legal duties towards the applicant.

16. Assessment of local connection

16.1 The Council may decide to use the discretionary power under Section 33 of the Housing (Scotland) Act 1987 (as amended), as it thinks fit, to refer a homeless applicant to another local authority outwith Scotland for accommodation. In accordance with The Homeless Persons (Suspension of Referrals between Local Authorities) (Scotland) Order 2022, the Council cannot refer a homeless applicant to another local authority area within Scotland. The Council will only make a referral when the following circumstances apply:

- If the applicant has been assessed as unintentionally homeless or threatened with homelessness; and
- If there are reasons to suggest that the applicant does not have a local connection with Moray and the applicant, or someone who can reasonably be expected to reside with the applicant, has a local connection with another local authority and there is no risk of domestic abuse in the other local authority area; and
- the local authority which the either the applicant, or someone who can reasonably be expected to reside with the applicant has a connection with, is out with Scotland.

The Council will ensure that the individual circumstances of the applicant are considered holistically on a case by case basis before making a decision to use the power to investigate local connection and make a referral to another local authority.

16.2 The Council will base its decisions on the definition of local connection in accordance with Section 27 of the Housing (Scotland) Act 1987 and the Code of Guidance. This means that a local connection will be established if:

- the customer has been resident in Moray for at least six months in the previous twelve months, or for at least three years during the previous five years;
- the customer or a member of their household is employed in Moray;
- a member of the household has a close family member currently resident in Moray for at least five years; or
- there are special circumstances. For example, where customers have no local connection with anywhere in the United Kingdom.

16.3 In accordance with Section 27 of the Housing (Scotland) Act 1987 (as amended by Section 156 of the Housing (Scotland) 2010), any person

who is serving in the armed forces (and those who live with them) will form a local connection with the area they have lived or worked in.

16.4 Any person who is leaving a settled address out with Moray due to violence or harassment and cannot continue to live in their home locality will be accepted as having a local connection.

16.5 A person will not be referred to another local authority if there is a risk of domestic abuse, to either the person or anyone who might reasonably be expected to reside with him or her in that other local authority's area. "Abuse" includes violence, harassment, threatening behaviour, and any other conduct giving rise, or likely to give rise, to physical or mental injury, fear, alarm or distress.

17. Maintaining contact with customers

17.1 Customers will be notified of their decision within 28 days from the date of their homeless application. Where a customer has been assessed as homeless, they will be contacted at least every 3 months to review their circumstances.

17.2 Customers who are placed in temporary accommodation will be contacted on a weekly basis.

18. Notification of outcomes

18.1 Once its inquiries into a homeless application are complete, the Council will, in accordance with the requirements of Section 30 of the Housing (Scotland) Act 1987 (as amended) and the Code of Guidance on Homelessness 2019, notify the applicant in writing of its decision. The decision letter will first and foremost notify the applicant of the decision that has been made based on their individual circumstances and will clearly set out whether the Council has:

- found the applicant to be homeless or threatened with homelessness;
- used its discretionary power to investigate intentionality and whether the applicant is judged to be intentionally homeless or threatened with homelessness; and
- notified or intends to notify another local authority of the application due to a potential local connection with that local authority.

18.2 The decision letter will meet all further requirements set out in the legislation and Code of Guidance by also detailing, the full reasons for reaching the decision, advice on what happens next, contact details of the officer dealing with the application, how to request a review of the decision, a list of sources of independent advice and advice on the availability of temporary accommodation.

18.3 The decision will normally be made within 28 days unless sufficient information cannot be obtained in that time. The officer will agree with their line manager on whether to accept the case without the full information or advise the customer that the case will be continued and give reasons why.

19. Review of an intentionality decision

19.1 In line with the Code of Guidance on Homelessness 2019, if there is reason to believe that there has been a change in the customer's circumstances, officers can decide to review the earlier decision, taking into account the changed circumstances.

19.2 A change in circumstances can include identification of support needs to address certain behaviours, tenancy sustainment issues which may have contributed to or caused the failure of their current tenancy/last accommodation and / or any clinically evidenced decline in health or functional abilities.

19.3 The customer will be provided with an extended period of three months in temporary accommodation along with appropriate support to address needs and assist to resolve issues.

19.4 The dedicated support worker will provide updates regarding the applicant and whether any progress or effort is being made by them to improve their behaviour and/or issues. The Housing Needs Officer will monitor the situation over three months.

19.5 At the end of the three month period the Housing Needs Officer will reassess the application based on whether the applicant has engaged with the support service and any evident commitment or progress they have shown towards improving their situation and/or their ability to sustain a tenancy. This period can be extended to six months, at the discretion of Housing Needs Senior Management, where the applicant is starting to show signs of engagement and progress.

19.6 Where sufficient progress has been made within the extended period, the Housing Needs Officer will overturn the intentionally homeless decision. The customer will be advised that the decision has been reviewed and that they have been assessed to be unintentionally homeless and of the rights that they will have to temporary and permanent accommodation (see section 21).

20. Quality assurance

20.1 A random sample of 10% of all cases will be quality assured retrospectively (after the decision has been made) by the Senior Housing Needs Officer.

21 Provision of temporary and settled accommodation

- 21.1 The Council does not consider temporary accommodation to be an alternative to having a permanent home and will ensure that time spent in temporary accommodation is as short as possible. However it is recognised that customers may need access to temporary accommodation:-
- while the Council carries out a full investigation into their homelessness and / or;
 - where the Council has assessed that it has a duty to secure accommodation for a household, but has not been able to make an offer of housing.
- 21.2 Where possible, the Council will take into account the wishes of the customer, when arranging temporary accommodation although this will be influenced by the availability of temporary accommodation. The Council will ensure that:-
- accommodation is appropriate to the needs of the customer and their household; and
 - customers are advised of their right to refuse an offer of temporary accommodation and of the procedure for requesting a review of the decision to offer a particular property.
- 21.3 The Council will comply with the requirements of Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 which aims to minimise the amount of time homeless households should spend in unsuitable temporary accommodation to a maximum of seven days unless there are exceptional circumstances. It will seek to minimise bed and breakfast usage for temporary accommodation and will only use it in an emergency or if there is no other suitable temporary accommodation.
- 21.4 All properties rented by the Council will have all necessary licenses and registrations in place.
- 21.5 All temporary accommodation and furnishings provided by the Council will be of a reasonable standard of repair and will comply with fire safety regulations etc. The Council will inspect all temporary accommodation provided on a regular basis. Any damage caused wilfully, accidentally or negligently by the customer, anyone living with a customer or an invited visitor to the customer's temporary accommodation will be recharged to the customer.
- 21.6 Once a customer is placed in temporary accommodation the Council will ensure that contact is maintained, moves to alternative temporary accommodation are kept to a minimum and assistance will be given with health and education registration.

- 21.7 Customers provided with temporary accommodation will be responsible for the payment of any rent and service charges that apply to the property for the duration of their occupancy in line with the Temporary Accommodation Charging Policy. This responsibility extends to the completion of forms required in order to claim any benefits associated with the payment of the rent or service charges. Where requested, assistance to complete forms will be provided.
- 21.8 The Council will work proactively with customers to manage any arrears accrued. However, continued failure by a customer to make regular payments or to engage with the Council, may result in them being asked to leave the temporary accommodation provided to them. This will not change the Council's duties to provide permanent accommodation.
- 21.9 The Council expects that everyone should be able to have quiet enjoyment of their accommodation, without being abused or harassed or subject to noise or other nuisance caused by those around them. Any complaints of antisocial behaviour in temporary accommodation will be investigated. The Council will work proactively with customers to address and tackle antisocial behaviour. However, if the customer does not engage with the Council, it may result in them being asked to leave the accommodation. This will not change the Council's duties to provide permanent accommodation.

Protection of belongings and storage

- 21.10 Where a customer is unable to do so themselves, the Council has a duty to protect the property of those who it believes may be homeless and who have been provided with temporary accommodation. If there are any moveable possessions that cannot be taken into temporary accommodation, and no other suitable arrangements can be made, then the Council will arrange storage for the possessions.
- 21.11 Any removals and storage of belongings will be arranged with private companies and recharged to the customer. A repayment plan for the total amount of removals and storage will be agreed with the customer.
- 21.12 When the Council's duty to provide temporary accommodation ends its duty to protect belongings also ends. The Council will inform the customer of this when they are initially provided with temporary accommodation.

Unclaimed belongings

- 21.13 If the possessions of a customer leaving temporary accommodation are not claimed, the Council will continue to store them for a maximum of six months and the cost recharged. Thereafter, unclaimed

possessions will be disposed of by sale (or to a charity where the money likely to be raised will not offset the costs of the sale).

22. Permanent accommodation

- 22.1 Where a customer is accepted as unintentionally homeless, the Council will seek to provide suitable accommodation using the Council's allocation policy and nomination agreements with Registered Social Landlords (RSLs) and other agencies.
- 22.2 Customers will normally receive **two** reasonable offers of housing. The offer of housing may be made by other housing landlords (such as housing associations).
- 22.3 A "reasonable offer" of housing will be considered on the basis of the size and type of accommodation required, any special education, health or family support reasons or transport or employment. Consideration will also be given to any safety concerns that may exist for the household. At the time of the allocation, the customer will be advised of the procedure for appealing against decisions. This includes the decision to refuse a particular property.
- 22.4 Following the refusal of two reasonable offers of accommodation, the Council will have been deemed to have fulfilled its duty in terms of the homeless legislation. The customer will be provided with temporary accommodation for a reasonable period of time and provided with advice and assistance to enable them to secure alternative accommodation.

23. Requests for a review of a decision

- 23.1 The customer can request a review of the homeless decision or offer of temporary accommodation within 21 days of the date of the decision letter or offer. The customer or their representative should make the request in writing and include the customer's signature or mark.
- 23.2 The request for a review should include the grounds on which it is made. A request for a review will be considered by a senior manager not previously involved with the original decision with a target of 28 days to respond to the customer.
- 23.3 **Complaints – the corporate process**
The Council operates a complaints procedure that is available to any customer. Details of the complaints procedure can be obtained from any Council office or Access Point.
- 23.4 Customers who are unhappy with a decision may seek a judicial review and this does not diminish their right to approach the Ombudsman or the Care Inspectorate.

23.5 Temporary accommodation and protection of furnishings/belongings will be provided, if required, during the review and appeals process.

24. Records management

24.1 It will be necessary for certain information to be exchanged with other agencies with which the service works. This will be carried out in accordance with the terms of Data Protection legislation and any agreed guidelines and/or with respect to any information sharing protocols. This includes statutory agencies such as the Social Work, NHS services, the police and any other relevant voluntary agencies.

24.2 Certain information will be shared with the Scottish Government for statistical monitoring and analysis purposes. The Council will ensure that such information is anonymous.

24.3 The Council will ensure that confidential information will be requested, retained and managed, in accordance with the Moray Council's Information Management Strategy and Record Management Guidelines.

24.4 Information will not be disclosed to third parties without the customer's written consent. This will not apply if failing to share the information would be likely to put the customer, children or other people at risk or harm, or is required by law; if it would prejudice the prevention of crime.

24.5 The Council will ensure that customers have access to individual records by complying with the requirements of Data Protection legislation and by working in accordance with the Moray Council's policies and procedures.

25. Performance monitoring and policy review

25.1 The Council continually monitors its performance in relation to homelessness. Statistical monitoring on homeless performance is used to assist with the Annual Return on the Charter (ARC) to the Scottish Housing Regulator and Scottish Government statistical returns. Performance indicators are presented to the Council's Housing and Community Safety Committee or any other relevant Committee on a quarterly basis and are also used for internal monitoring of the service.

25.2 The Council will monitor:-

Annually

Housing Options approaches and outcomes –

- number of new cases in period
- cases closed in period with outcomes –

- homeless application made
- chose not to make homeless application
- lost contact
- other

Quarterly

Homeless assessments completed within 28 days

Homeless reviews

- number requested in the period
- number completed in the period
- percentage completed in target timescale
- percentage where decision is overturned
- average length of time for review

Average length of time in temporary or emergency accommodation by type

- LA ordinary dwelling
 - HA/RSL ordinary dwelling
 - hostel – LA owned
 - hostel – RSL
 - hostel – other
 - bed and breakfast
 - women's refuge
 - private sector lease
 - other
- percentage of households requiring temporary or emergency accommodation to whom an offer was made
 - percentage of temporary or emergency accommodation offers refused in the last year
 - of those households homeless in the last 12 months, the percentage satisfied with the quality of temporary or emergency accommodation
 - number of temporary accommodation units and percentage units void at the end of period.

25.3 These performance indicators will be reported to the Housing and Community Safety Committee or any other relevant Committee which has the remit to consider Housing issues. The reports will be public documents but the confidentiality of individual customers' circumstances will be maintained.

25.4 Other statistics will be collected from time to time for management and planning purposes.

- 25.5 Further performance indicators may be developed over a period of time to reflect the requirements resulting from the continued implementation of the Housing (Scotland) Act 2001 and the Homelessness etc (Scotland) Act 2003.
- 25.6 The Council will review the operation of the Homelessness Policy in 2026 or earlier if required by legislative changes.