

# THE MORAY COUNCIL

## HOUSING AND PROPERTY SERVICES

### Allocations Policy

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## **1. Scope of the policy**

- 1.1 This policy details the framework for the allocation of Council housing that makes best use of housing stock whilst taking into consideration the needs, demands and aspirations of applicants.

## **2. Strategic context**

- 2.1 The Allocations Policy will contribute to the Moray Local Housing Strategy, the Moray Community Plan, the Council's Corporate Plan and the Single Outcome Agreement.
- 2.2 It will assist the Council to fulfil the key priorities under the Community Plan "to help local communities to flourish, becoming a stronger, safer place to live, offering improved opportunities and a better quality of life."
- 2.3 It will assist the Council to fulfil its overall aim of the Local Housing Strategy, "to ensure that sufficient good quality, affordable housing is available to meet the needs of people living in or requiring housing in Moray." In addition it will assist the Council to achieve agreed outcomes of the Local Housing Strategy:
- There is an adequate supply of affordable housing
  - We make the best use of existing social rented housing
  - Social rented housing is allocated equitably
  - Every customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services. (Scottish Social Housing Charter).

## **3. Principles and objectives of the Allocations Policy**

### **3.1 Principles**

The Council's Allocation Policy is influenced by the following principles which will underpin the Council's approach to the allocation of housing:

- Legality – the Council seeks to ensure that its Allocations Policy reflects the legal framework and good practice;

- Consistency – the Council will apply the Allocations Policy in a consistent manner so that all applicants with similar characteristics are treated in a similar manner to achieve similar outcomes;
- Openness – the Council will provide explanatory leaflets on the Policy and information on the operation of the Allocations Policy (whilst maintaining individual confidentiality);
- Responsiveness – the Council seeks to have a policy which is capable of responding to a wide range of complex individual needs and circumstances and which embodies an appeals process;
- Equal opportunities – the Council seeks to ensure that the Policy does not discriminate between applicants on the grounds of: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief and sexual orientation.
- Local co-operation – the Council seeks to work with other housing providers in the area to best meet housing needs in Moray.

## 3.2 Objectives

- 3.2.1 To address housing needs in the area and where possible, to take into account applicants' housing aspirations.
- 3.2.2 To assess applications for housing in an objective, consistent and fair manner, complying with all relevant legislation and best practice.
- 3.2.3 To make best use of the available housing stock.
- 3.2.4 To sustain and promote local communities as far as is possible.
- 3.2.5 To monitor performance and respond to changing patterns of need as they may arise by reviewing the Allocations Policy of the Council on a regular basis.
- 3.2.6 To inform the Council's strategic planning processes.

3.2.7 To ensure that the Allocations Policy and practice is accessible to all applicants, by producing information in plain language that is clear and understandable.

#### **4. Legal context**

4.1 The primary legislation governing allocations of Council housing is contained within the Housing (Scotland) Act 1987 as amended by the Housing (Scotland) Act 2001 and the Homelessness etc (Scotland) Act 2003. This legislation provides the Council with the discretion to develop allocation and local letting policies in line with local priorities.

4.2 Sections 19 and 20 of the Housing (Scotland) Act 1987 as amended by Sections 9 and 10 of the Housing (Scotland) Act 2001 set out the legal rules about social housing lists and allocations.

4.3 Landlords have a duty to make rules covering priority of allocation of houses, transfers and exchanges and to publish these rules (section 21 of the 1987 Act, as amended by section 155 of the Leasehold Reform, Housing and Urban Development Act 1993 and the 2001 Act).

4.4 In addition, the following legislation regulates the legal framework for the Allocations Policy:

- The Human Rights Act 1998;
- The Data Protection Act 1998;
- The Access to Personal Information (Housing) (Scotland) Regulations 1993;
- Equality Act 2010;
- The Immigration and Asylum Act 1999 (as amended);
- The Matrimonial Homes (Family Protection) (Scotland) Act 1981;
- Civil Partnership Act 2005; and
- Family Law Act 2006.

The above list is not exhaustive.

#### 4.5 **Regulatory context**

The Council must meet the outcomes of the Scottish Social Housing Charter. The Charter sets the standards and outcomes that all social landlords should aim to achieve when performing their housing activities. The standards and outcomes are:

##### **Housing Options**

Social landlords work together to ensure that:

- people looking for housing get information that helps them make informed choices and decisions about the range of housing options available to them;
- tenants and people on housing lists can review their housing options.

Social landlords ensure that:

- people at risk of losing their homes get advice on preventing homelessness.

##### **Access to Social Housing**

Social landlords will ensure that

- people looking for housing find it easy to apply for the widest choice of social housing available and get the information they need on how the landlord allocates homes and their prospects of being housed.

#### 4.6 **Government guidance**

This policy promotes good practice and complies with the Scottish Government guidance, "Social Housing Allocations: A Practice Guide". This Guide includes and replaces:

- SEDD Circular 1/2002 'Housing (Scotland) Act 2001: Housing Lists and Allocations';
- Housing and Regeneration Circular HAR1/2009 'Housing for People Leaving the Armed Forces'; and
- Good Practice in Housing Management: Medical Priority in Allocations', Good Practice Note 7, the Scottish Office published in 1999.

## **5. Eligibility criteria**

- 5.1 In accordance with the Housing (Scotland) Act 2001, the Moray Council operates an 'open' housing list. Eligibility for accessing a housing list only takes into account the age of the applicant. Anyone aged 16 years and over is entitled to be admitted to the Housing List. The right to be admitted to the list is not a right to be allocated a house.
- 5.2 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.

## **6. Information and advice**

- 6.1 The Council will provide applicants with information and advice about their housing application. The Council aims to provide easily understood advice leaflets on the Allocations Policy and to provide details of alternative accommodation in the area, where possible. The Council will develop information and advice in a variety of formats such as large print, tape and Braille. The Council will provide interpreting services free of charge, where these are required to assist applicants.
- 6.2 The Council will treat all applicants for housing with courtesy, sensitivity and in complete confidence. Applicants can request an interview with a member of staff to discuss their housing application. Applicants may request a same sex interview if they have to attend any interview. Applicants will have the right to have a relative, friend or advisor present at any interview. Interviews will be held in private interview rooms and all information will be treated in complete confidence.
- 6.3 The Council will make available to each applicant a summary of the Allocations Policy. On request, a copy of the full policy document will be made available free of charge.

## **7. The Housing List**

7.1 Application to the Housing List is made via the web based Common Housing Register, "Apply4Homes"\*. This enables applicants to apply to all for council and housing association properties with Apply4Homes partners across Moray and Aberdeenshire using one application process. The Apply4Homes website is an applications portal which collects information. It does not make any assessment of housing need.

\* An applicant, or person seeking to be housed with an applicant, who is subject to the notification requirements of the Sex Offences Act 2003, must contact the Council's Sex Offender Liaison Officer (SOLO) to submit an application.

7.2 The Council and its Apply4Homes partners will provide advice and assistance to applicants who do not have internet access or who may require additional support to complete the online application.

7.3 The Housing List will comprise the Transfer List, the Homeless List and the Waiting List. Applicants accepted onto the Transfer List will currently be tenants of The Moray Council. The Homeless List will contain those applicants who have been assessed by the Council as being unintentionally homeless. All other applicants will be placed on the Waiting List. The Council will seek to admit applicants to the Waiting/Transfer List within 10 working days of their application being received by the Council.

7.4 The ratio of allocations to be made to each List will be determined annually by the Communities Committee of the Council and will be applied at a Moray wide level (except for properties detailed in the local lettings plan. Refer to [section 12](#) of the policy).

7.5 Details of point levels etc will be provided to applicants, in writing, on acceptance of their application to the Housing List. Applicants may request details of their points levels at reasonable intervals. The Council will only be able to provide points and positions for its Housing List. If an applicant has

made application to another Apply4Homes partner, the applicant must contact that landlord directly.

## **8. Applicant choices**

8.1 Applicants will be asked to identify any preferred heating type and house type. In addition applicants will be asked to identify:

### **8.2 Preferred areas of choice**

8.2.1 The Housing List maintained by the Council will be organised into lettings areas. Applicants can apply for as many or as few lettings areas as they wish. Applicants will be considered equally for all of the letting areas that they have chosen. Applicants on the Homeless List will be considered for any available suitable property in Moray as long as it considered reasonable in terms of homeless legislation.

8.2.2 Applicants will be asked to indicate the top three letting areas where they would prefer to live. The Council will use this information for strategic purposes.

### **8.3 Size of housing**

8.3.1 Applicants will be asked to indicate their preferred house size. However, actual house size required, based on the bedroom requirement, will be taken into consideration when allocating properties. In assessing bedroom deficiency or overcrowding, rooms which are less than 6.5 square metres in area or without natural lighting will not be included.

8.3.2 Separate bedrooms are required for:

- Husband/wife or similar partnerships
- Each person aged 16 years or over
- Children aged 5 years or over of different sex from other children of any age Children of the same sex where there is an age difference of 5 years or more between the elder and the younger child

No more than two persons of any age should occupy one bedroom.



8.3.4 It should be noted that the Council's size criteria differs to the criteria used by the Department of Work and Pensions (DWP). The size of property allocated will depend on the household composition and will generally operate as follows:

<b>Household size</b>	<b>bedroom size</b>
<b>Single person</b>	One
<b>Couple</b>	One
<b>Single parent or couple with one child or pregnant</b>	Two
<b>Single parent or couple with two children of the same sex</b>	
Both children are aged under 16 and there is an age gap of less than 5 years	Two
Both children are aged under 16 but there is an age gap of more than 5 years	Three
One or both of the children are aged 16 or over	Three
<b>Single parent or couple with two children of the opposite sex</b>	
Both children are under the age of 5	Two
One child is aged 5 or over	Three
<b>Single parent or couple with three children of the same sex</b>	
Two children have an age gap of less than 5 years and both are under 16 years of age	Three
There is an age gap of more than 5 years between all three children	Four
All children are over the age of 16	Four
<b>Single parent or couple with three children of the opposite sex</b>	
Two children are able to share a room (both the same sex, less than a 5 year age gap and both under 16 years of age)	Three
None of the children are able to share a room due to opposite sexes and age	Four
<b>Single parent or couple with four children of the opposite sex</b>	
All children are able to share a bedroom	Three
Only two of the children are able to share a bedroom	Four
None of the children are able to share a bedroom	Five

Each application will be considered on an individual basis. In order to make best use of housing stock and maximise choice there may be exceptions to this.

#### **8.4. Ground floor properties**

8.4.1 In order to make best use of housing stock and meet specific housing need, for the purposes of one and two bedroom ground floor properties only, the Council will offer flexibility for the house size that an applicant may be considered for.

8.4.2 The housing list for one and two bedroom ground floor properties will be combined. Applicants assessed as requiring a one bedroom ground floor property will also be considered for two bedroom ground floor properties. The applicant with the highest level of need will be allocated the property.

8.4.3 In the event that an applicant is deemed to require a one bedroom property and is eligible for under occupancy points and the applicant decided to accept a two bedroom property, the award of under occupancy points would be adjusted accordingly. For example, a single person household occupying a three bedroom Council house would receive 200 under occupancy points when being considered for a one bedroom ground floor vacancy. The award of points, when being considered for a two bedroom ground floor vacancy, would be adjusted to 100 under occupancy points.

#### **9. The assessment of priorities for housing**

9.1 The Council will assess all applicants for housing on a fair and consistent basis. The placing on the Transfer & Waiting List will be determined by the number of points awarded to an applicant, on the basis of their current circumstances. There is no maximum level of points that will be awarded to these applicants. Applicants on the Homeless List will have no points awarded whilst they remain on that list and placing will be determined by the date of homeless application unless there are exceptional circumstances that merit an urgent offer of accommodation.

## 9.2. **Priorities and points**

9.2.1 The Allocations Policy is a points based policy which gives priority to applicants with housing need as fairly as possible and within the context of relevant legislation. Points are awarded for a range of circumstances based on an assessment of their housing needs. These categories and levels of points are detailed below.

## 9.3 **Homelessness**

9.3.1 Applicants who are homeless under the Housing (Scotland) Act 1987, as amended will be placed on the Homeless List but will receive no points.

9.3.2 All homeless applicants will receive the same number of offers as any other applicant is entitled to under this Policy. However in recognising the immediate need for accommodation of those placed on the Homeless List, the Council will consider offering any vacant property to an applicant who is on that list, providing that the offer can be regarded as reasonable given the particular circumstances of the applicant. This may include property in lettings areas or property types which the applicant has not selected.

9.3.3 In determining whether an offer is considered reasonable, the Council will take into account the particular circumstances, the needs of the applicant and their household and the sustainability of the accommodation.

## 9.4 **Overcrowding**

9.4.1 For the purposes of determining overcrowding, the Council considers that separate bedrooms are required for:

- husband/wife or similar partnerships;
- each person aged 16 years or over;
- children aged 5 years or over of different sex from other children of any age;
- no more than two persons of any age should occupy one bedroom; and
- children of the same sex where there is an age difference of 5 years or more between the elder and the younger child.

Applicants' current accommodation will be assessed on the above basis and points awarded, where there is a bedroom deficiency. For each bedroom for which the applicant's current accommodation is deficient, **100 points** will be awarded.

9.4.2 Where an applicant believes that a bedroom is insufficient in size to allow two persons to share, an applicant may request that a visit is made to assess whether additional overcrowding points should be considered.

9.4.3 In cases where an additional bedroom need arises from pregnancy, overcrowding points will be added to the application from the date of confirmation of the pregnancy. However, in allocating properties, preference will be given to households where overcrowding currently occurs, rather than to instances of potential overcrowding.

#### 9.4.4 **Periodic contact**

Where an additional bedroom is required for frequent and regular overnight contact with children, a total of **50 points** will be awarded. Proof of contact arrangements must be provided from the Court or solicitor or Social Worker or the parent with whom the children usually reside.

An applicant will only be eligible for one additional bedroom irrespective of the number of children covered by the any contact agreement.

Applicants who are awarded periodic contact points and who may be affected by the removal of the spare room subsidy will be made aware of the shortfall in benefit upon assessment of their application.

### 9.5 **Functional housing need**

9.5.1 Applicants applying for housing because they think that their home is not suitable because of a health condition and / or a disability will complete a Housing Functional Assessment Form. A housing functional assessment is not an assessment of a person's condition or disability. It is a more holistic approach, taking into account mental health, physical and learning disability

issues. It is an assessment of the need for another home that would either help to stabilise a clinical condition or disability or allow a person to function more independently.

9.5.2 Applicants who are leaving the armed forces due to injury or disability and require access to adapted social housing will be deemed to have a significant level of housing need. This will be addressed through a housing functional assessment.

9.5.3 Housing functional assessments are completed by the Housing Occupational Therapist who will award functional assessment points in accordance with the points criteria detailed below. In more complex cases or where further evidence is needed to make a decision, Housing Occupational Therapist will request additional information from the applicant and /or any of the services/professionals included in the completed assessment form.

9.5.4 Points may be awarded as follows:

Category	Criteria	Points
A	Awarded where the illness will become life threatening if the person were to remain in their current accommodation or due to illness and dysfunction it has been clearly established by health professionals that the person is no longer able to safely remain in their current accommodation.	<b>500</b>
B	Awarded where the illness is likely to continue to seriously deteriorate if the person remains in their current accommodation and/or the person is long term and substantially disabled and due to this it has been established by health professionals that they are unable to access and use essential facilities in their current home.	<b>350</b>
C	Awarded where it has been established by a health professional that a change of property would	<b>150</b>

Category	Criteria	Points
	significantly increase the person's level of safety, ability and independence when completing essential day to day activities.	
D	Awarded where it has been established by a health professional that a change of property would moderately increase the person's level of safety, ability and independence when completing essential day to day activities.	<b>50</b>
E	No points will be awarded where there are no recognised barriers in place for a person to carry out their day to day activities. No points will be awarded where alternative solutions can be provided (e.g. aids and adaptations).	<b>0</b>

9.5.5 Applicants who are not satisfied with the outcome of their assessment will have the right to appeal. An appeals panel comprising of the Housing Needs (Operations Manager), the Senior Housing Needs Officer and the Advanced Occupational Therapist will consider appeals. At the appeal hearing, the Housing Occupational Therapist will be required to present the reasons and rationale for their original decision and the panel would decide thereafter whether the level of priority should remain or change.

9.5.6 The appeals panel will write and advise the applicant of the outcome of the review and of the reasons for the decision.

9.5.7 As an additional oversight, the appeals panel will also carry out a random sample of routine functional assessments every quarter to ensure consistency, transparency and good practice.

9.5.8 The Council will not accept another functional assessment application from the applicant's household for twelve months from the date of the original decision, unless:

- there is a significant decline in the health of those who have applied for points and there is evidence to verify this;
- a different person within the household applies for points;
- there is a change of address;
- their housing situation becomes worse; or
- the person who has been awarded the functional assessment points leaves the household.

### 9.6 Under occupancy

Using the same guidelines as detailed in [section 9.4.1](#) above, points will be awarded where applicants occupy houses larger than their requirements.

For each bedroom surplus to requirements **50 points**

For Transfer List applicants, **100 points** per bedroom surplus will be awarded to reflect management of the housing stock.

Any points awarded under this needs factor will be related to the actual number of bedrooms sought by the applicant.

### 9.7 Poor housing conditions

Poor housing conditions (including caravans) will be awarded points on the following basis, following an inspection where this is required to ascertain condition:

Facilities are defined as sink, wash-hand basin, bath or shower, hot and cold water supply to facilities, and inside toilet.

Below Tolerable Standard and lacking facilities	<b>250 points</b>
Below Tolerable Standard with facilities	<b>150 points</b>
Lacking facilities but meets standard	<b>100 points</b>

### 9.8 Sharing amenities

Amenities considered for sharing points are kitchen, toilet and bathroom.

Applicants whose household share amenities with another household (points will only be awarded to applicants who are not the tenant/owner of the property).

**100 points**

#### **9.9 Key workers**

Applicants who are taking up employment in Moray who can demonstrate that they are bringing a skill that is not available locally may be eligible for award of key worker points. In ascertaining whether an applicant may qualify for such points, the Council may seek the advice of the Job Centre/Employment Agency/Local Enterprise Company on the availability of such skills locally. The Council will require the applicant's employer to provide confirmation and support for a request for key worker points.

Applicants will only be eligible for key worker points in cases where their current permanent accommodation is beyond a reasonable travel to work distance from their employment. For the purposes of this section of the Policy, a reasonable travel to work time is defined as a car journey of one hour or less.

Tenancies granted to applicants with key worker points will normally be Scottish short secure tenancies (SSST), as defined in the Housing (Scotland) Act 2001. However, the Housing Needs Review Group may consider requests for an extension of a short secure tenancy and may consider whether a secure tenancy should be granted, taking into account the relative demand and availability of accommodation in the area. The Housing Needs Review Group will review all SSSTs created under this section of the policy after a period of 9 months has elapsed in each tenancy.

**100 points**

#### **9.10 Leaving institutional/supported care**

Applicants will be awarded points if any of the following circumstances apply and are confirmed by a Social Worker, Care Manager, Care Provider,



Housing Support Provider, Community Psychiatric Nurse, General Practitioner, Doctor or Consultant, as may be appropriate given the individual circumstances of each case.

Where residential care/hospital is no longer appropriate.

Where supported accommodation/ supported lodgings/foster care is no longer appropriate.

Where a kinship care placement is no longer appropriate

**250 points**

#### 9.11 **Flatted/maisonette accommodation**

Applicants with children under 16 years of age who are currently occupying flatted/maisonette accommodation where there is shared access within the building are awarded points as follows:

Residing in a first floor flat or above ground floor access maisonette for 1 year or over.

**40 points**

Residing in a second floor or over flat or maisonette where the living accommodation is on the second floor or above for 1 year or more.

**75 points**

#### 9.12 **Need to reside**

There may be instances where an applicant needs to reside in a specific lettings area. Need to reside points may be awarded where the applicant (or a member of their household) needs to remain in or move to a lettings area in order to:

- provide or receive care or support (that would not otherwise be available);
- access or maintain specialist education or specialist facilities;

- access or provide childcare arrangements to allow the applicant, or the person who they want to move closer to, to undertake employment;
- be closer to a place of employment; or
- where the applicant has a permanent residence/principal home within a lettings area.

Need to reside points will be awarded when the Council is satisfied that their requirement can be substantiated. The applicant must provide valid evidence. Applicants will be asked to identify a specific lettings area and up to two other bordering lettings area. Only those lettings areas identified will be eligible for the award of need to reside points.

**50 points**

### 9.13 **Tied accommodation**

An applicant may live in accommodation which is part of the conditions of their employment. Applicants will have no right to reside in the accommodation once their employment ends. Applicants living in tied accommodation will be awarded tied accommodation points if the applicant is retiring or their employment ends, which results in them having to leave the accommodation. In the event that the tenant has died, points for tied accommodation may be awarded to the partner or spouse of the tenant. Applicants must provide valid evidence of the loss of accommodation. Points will be awarded up to 90 days before the applicant's tenancy ends.

Applicants who are Armed Forces personnel and who occupy service accommodation which is due to be terminated and will be awarded tied accommodation points. Applicants will be required to provide a copy of their Certificate of Cessation of Entitlement to Occupy Service Living Accommodation issued **six** months before discharge. Points will be awarded up to six months before the applicant's tenancy ends.

**250 points**

### 9.14 **Exceptional circumstances**

'Exceptional circumstances' points may be awarded in cases which cannot be appropriately considered within the Allocations Policy.

Applicants may request that their circumstances are referred to the Housing Needs Review Group for consideration of the award of such points. Applicants will have the right to appeal to a Sub Committee of the Communities Committee against any decision of the Housing Needs Review Group. Any award of 'exceptional circumstances' points may only be made by either the Housing Needs Review Group or the Housing Appeals Sub Committee of the Communities Committee.

Exceptional circumstances points may range from **0 to 500 points**, depending on the specific circumstances of the applicant and the availability of housing.

<b>Summary of priorities and points level</b>		
<b>Priority category</b>		<b>points</b>
Homelessness		<b>0</b>
Overcrowding		<b>100</b>
Functional need		<b>0 - 500</b>
Under occupancy	Waiting list	<b>50</b>
	Transfer list	<b>100</b>
Poor housing conditions	Below tolerable standard and lacking facilities	<b>250</b>
	Below tolerable standard with facilities	<b>150</b>
	Lacking facilities but meets standard	<b>100</b>
Sharing amenities		<b>100</b>
Key workers		<b>100</b>
Leaving institutional/supported care		<b>250</b>
Flatted/maisonette accommodation	Residing in a first floor flat or above ground floor access maisonette for 1 year or over.	<b>40</b>
	Residing in a second floor or over flat or maisonette where the living accommodation is on the second floor or above for 1 year or more.	<b>75</b>
Need to reside		<b>50</b>
Tied accommodation		<b>250</b>
Exceptional circumstances		<b>0 - 500</b>

## 10. The process of allocating houses

- 10.1 Annually, the Communities Committee will review the ratio of allocations to be made to the Transfer, Homeless and Waiting Lists. The ratio will be considered at a Council wide level. In deciding what list a vacancy should be let from, the Housing Needs Manager, in consultation with the relevant Area Housing Manager, will have regard to the number of vacancies arising in that letting area, the level of demand from the Transfer, Homeless and Waiting Lists and any particular attributes of the property to be allocated.
- 10.2 In allocating any vacancy, the Housing Needs Manager will 'match' applicants' preferences to the attributes of the property to be allocated. Therefore, applicants who have indicated that certain house types/heating types etc are not acceptable to them may not be considered for vacancies with these attributes.
- 10.3 Each application is assessed fairly and consistently with respect to the priorities **and** points level awarded (as detailed in [Section 9](#) of this policy). Applications are prioritised and ranked. This ranking may change as applicants are housed, applicants' circumstances change, applicants are removed or new applicants are admitted to the Housing List. The Council may be required to deviate from the Allocations Policy in certain circumstances. Please refer to [Section 12](#) and [13](#) of the policy.
- 10.4 Allocations will normally be made to the applicants with the highest number of points for particular vacancies, where the applicant has a stated preference for housing in the lettings area in question. Applications on the Homelessness List are not awarded points. The position on the list will normally depend on the date that the homeless application was made. Normally an offer is made to the applicant who has waited the longest, unless there are exceptional circumstances.
- 10.5 Sheltered housing vacancies will be allocated on consideration of the points awarded for each applicant together with an assessment of needs.

- 10.6 Where there is an equality of points for any allocation, the date of the application for housing will be considered.
- 10.7 Any allocation carried out under the terms of this policy which involves an Elected Member, an employee of the Council, or a close relative, will be authorised by the Head of Housing and Property.
- 10.8 All allocations will be the responsibility of the Housing Needs Manager, in consultation with the appropriate Area Housing Manager.
- 10.9 In accordance with legislation, in allocating housing, the Council will take no account of:
- a) the length of time for which an applicant has resided in the area;
  - b) any outstanding liability (such as rent arrears) attributable to the tenancy of a house of which the applicant was not the tenant when the liability accrued;
  - c) any rent or other arrears accrued by the applicant on a previous tenancy which are no longer outstanding;
  - d) any liability which is outstanding but where
    - i) the extent of the liability is not more than one twelfth of the annual amount payable by the tenant to the landlord in respect of the tenancy; or
    - ii) the applicant:
      - has agreed arrangements with the landlord for paying the outstanding liability; has made payments in accordance with that arrangement for at least 3 months; and is continuing to make such payments.
  - e) any outstanding debts (including council tax arrears) of the applicant or anyone who it is proposed will reside with the applicant which do not relate to the tenancy of a house (this would include a previous tenancy) i.e. which are not rent arrears or service charges. This means that any outstanding debts which do relate to the tenancy of the house – e.g. rent, repair recharges or service charges – can be taken into account.

- f) the age of the applicant provided that the applicant is 16 years of age or over except in the allocation of
  - (i) houses which have been designed or substantially adapted for occupation by persons of a particular age group
  - (ii) houses for persons who are, or are to be, in receipt of housing support services (within the meaning of Section 91 of the 2001 Act) for persons of a particular age group or by persons with particular needs.
- g) the income of the applicant and his family;
- h) whether, or to what value, the applicant or any of the applicant's family owns (or any of them own or have owned) heritable or moveable property.

10.10 In accordance with Section 20 of the Housing (Scotland) Act 1987 (as amended), when allocating housing, the Council will take no account of whether an applicant is resident in the area if the applicant:

- a) is employed, or has been offered employment in the area; or
- b) wishes to move into the area to seek employment and the Council is satisfied that this is the applicant's intention; or
- c) wishes to move into the area to be near a relative or carer; or
- d) has special social or medical reasons for requiring to be housed within the area; or
- e) wishes to move into the area because of harassment; or
- f) wishes to move into the area because he or she runs the risk of domestic abuse.

10.11 Reasonable enquiries will be made where an applicant wishes to move into the area because of, for example, harassment, domestic abuse or for employment reasons. These enquiries will at all times be made in a sensitive and appropriate way.

## **11. Management and sharing of information**

- 11.1 Information supplied by an applicant will be retained and managed in accordance with the Data Protection Act 1998 and with the Moray Council's Information Management Strategy and Record Management Guidelines.
- 11.2 The Council will ensure that confidential information will not be disclosed to third parties without the consent of the applicant. This will not apply if failing to share the information would be likely to put the service user, children or other people at risk or harm, or is required by law; if it would prejudice the prevention of crime.
- 11.3 In order to assess an applicant's housing need, it may be necessary for certain information to be exchanged with other agencies with which the service works. For example, Social Work, NHS services and so on. 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.
- 11.4 Applicants have the right of access to their personal files, under the Data Protection Act 1998. The applicant is required to make a request in writing. The applicant should also provide such information as the Council may reasonably require in order to be satisfied as to the identity of the person making the request and to locate the information which that person seeks. Further guidance is available from Council Offices.

## **12. Local Lettings Plans**

- 12.1 The Council may from time to time consider the use of local lettings plan for specific lettings areas. Local lettings plans provide an open and transparent framework which set out any variation to the Allocation Policy needed to take account of and address local needs and circumstances. Local lettings plans are used to develop letting arrangements that:
- respond to local housing need and demand;
  - help to suitably match applicants to properties; and



- help them to achieve a balance housing mix within a particular area.

The main aim of a local lettings plan is to build a strong and sustainable community.

12.2 A local lettings plan may have the effect of introducing additional criteria in the allocations process which may result in allocations not being determined in accordance with applicant's points levels. The Communities Committee will consider proposals for the declaration of any local lettings plan.

12.3 Any local lettings plan agreed by the Council must accord with the overall principles and objectives of the Allocations Policy. Where a local lettings plan is proposed, detailed evidence to support the need for such an approach and why this cannot be met by the Allocations Policy itself will be considered by the Committee.

12.4 Where a local lettings plan is agreed for a specific lettings area, the Council will ensure that applicants are advised of the Plan. Any local lettings plan will be agreed for a specified period and will be reviewed annually by the Communities Committee.

12.5 The Council will promote the development of sustainable communities by allocating all "new supply" properties on the basis of local lettings plans. This ensures that new build programmes will meet the widest possible range of needs and avoid the creation of concentrations of vulnerable households in specific communities.

### **13. Sensitive lets**

13.1 The Council may regard some lets as sensitive. Sensitive lets may be used in exceptional circumstances, where it is deemed necessary for the Council to deviate from the Allocations Policy. The process involves approaching the selection of the most appropriate applicant from both a person and property perspective.

- 13.2 The Council will always consider the extent to which the allocation has the potential to create a lack of stability or imbalance in the local community or would be detrimental to the applicant's social well being. The Council will ensure that the needs of the applicant and the suitability of the property match.
- 13.3 When considering a sensitive let, instead of allocating a property to the applicant at the top of the list (the person in most housing need, as defined by the Allocation Policy), the Council will consider the suitability of the applicant for the vacancy, on the basis of the information it has about the applicant and on knowledge it has about the property, its location or neighbours.
- 13.4 The Council will ensure that all decisions regarding sensitive lets are accountable, transparent and monitored. Discretion may be applied when identifying sensitive let applicants or properties. For example, consideration will be given to the significance of the applicant's previous social conduct. Considerations may include, to what extent has the conduct affected the applicant's life and the life of others? Has there been legal involvement? Has there been a significant improvement?
- 13.5 The Council will monitor the use of sensitive lets in order to ensure that there is no pattern of bypassing particular groups.

#### **14. Bypassing applications**

- 14.1 The Council will endeavour to make best use of its housing stock. In making allocation decisions the Council must consider the match between the needs of the applicant and the suitability of the property. The Council will normally offer the property to the applicant with the highest number of points and who has a need for that particular size and type of house. However, there may be some situations where applicants may be bypassed for an offer of housing. Reasons for this may include:
- There is evidence that the allocation would place the community, or an individual at risk;

- Enquiries into the household's circumstances provide clear evidence that a particular allocation is unsuitable or inappropriate;
- The property has special features which are not required by the applicant or the applicant's household;
- The applicant or a household member has a medical condition which makes the property unsuitable;
- The applicant requires support and assistance to sustain a tenancy and the support is not available or in place;
- The applicant is in supported accommodation and is not ready to move to independent living; and
- The applicant's circumstances have changed and information is awaited or required to enable their application to be re-assessed.

14.2 The Council will ensure that when bypassing applicants it will:

- administer the process using a robust evidenced based approach to ensure that decisions are accountable, transparent, their use carefully monitored and an audit trail is in place;
- comply with legislation;
- manage processes in such a way so as to support individuals and communities and ensure that people are not unintentionally or unfairly disadvantaged;
- ensure that no applicants are bypassed inappropriately and that no pattern of discrimination emerges through bypassing particular groups. Sensitive lets will not be used as a means of 'screening out' households that may require greater support or involvement from staff; and
- monitor the impact on those individual applicants who are bypassed, including the number of times they are bypassed and any significant extra waiting time for an offer.

## 15. Suspensions

15.1 A suspension happens when someone has been assessed for and accepted on to the housing register but is told that he or she will not be eligible for an offer of housing until:

- a specified period has elapsed;
- it is evident that the conduct has changed; or
- a change in circumstances has occurred.

In accordance with legislation, homeless applicants cannot be suspended from receiving offers of housing.

15.2 The Council will not automatically suspend applicants from receiving offers of housing. The Council will attempt to work proactively with applicants, to ensure that the number of suspensions is kept to a minimum. Each case will be assessed on its own merits. The Council will always take personal circumstances and the extent of housing need into account before suspending applicants from receiving offers of housing. The Council will ensure that a balanced approach is taken and that the urgency of the applicant's housing need is of paramount importance.

15.3 The Housing Needs Manager may, in the following circumstances, suspend applicants from receiving offers of housing:

- (i) where an applicant, or any person who is proposed to reside with the applicant, has housing related debt of more than 1/12<sup>th</sup> of the annual amount payable (or which was payable) to the landlord and no repayment arrangement has been agreed or maintained. In such cases, the suspension period may continue until the applicant (or person who is proposed will reside with the applicant) has a reasonable repayment arrangement in place and maintained for a minimum period of three months. The Council will take into account the reasons why the debt has arisen;
- (ii) where there is evidence of anti social behaviour (through either eviction or the granting of an Anti Social Behaviour Order) which is related to the conduct of a tenancy. In such cases, the application may be

suspended for a period up to 12 months. If clear evidence is provided showing that there has been a change in behaviour, for a minimum period of three months, the suspension may be lifted;

- (iii) where an applicant has refused two reasonable offers of housing within one year (detailed in [section 18](#) of this policy). In such cases, the suspension period will be six months. During that period, no further offers of accommodation will be made. Appeals against the suspension of offers of housing will be considered in terms of the appeals process detailed in [section 20](#) of this policy.

- 15.4 If a social housing tenant in Moray has accrued rent arrears as a direct result of the removal of the spare room subsidy and wants to move to a smaller property, the Council may disregard the rent arrears accrued if it is satisfied that the tenant has done all he/she can practicably be expected to do to avoid falling into arrears.
- 15.5 In all cases where the applicant knowingly provides false or misleading information in order to improve their position on the Housing List, the application shall be suspended from receiving offers of housing during an investigation. If the investigation determines that false or misleading information was knowingly provided, the application will be suspended for six months. The Council may seek court action to recover any tenancy granted on the basis of false or misleading information knowingly provided.
- 15.6 Before an allocation is made to a transfer list applicant, a tenancy inspection will be carried out. If it is identified that the tenant is not adhering to the conditions of their current tenancy agreement, they may be suspended from receiving an offer of housing, until they meet the conditions of their tenancy. For example, if the tenant does not take reasonable care of their house (Scottish secure tenancy agreement 5.17). This suspension will be reviewed after a period of 3 months.

## 15.7 **Deliberate worsening of circumstances**

15.7.1 The Council will undertake investigations where it has reason to believe that an applicant deliberately did or failed to do something which, in consequence, led to a worsening of their housing circumstances in order to improve their position on the Housing List. For example, an applicant gives up settled accommodation in order to move into less settled or overcrowded accommodation.

15.7.2 In order to determine if an applicant has deliberately worsened their circumstances, the Council will investigate and assess each application on its own merits, taking into account all contributory factors. This will include ascertaining whether the applicant was aware of the consequences of their action and whether their actions were reasonable.

15.7.3 Where there is evidence to substantiate that an applicant deliberately did or failed to do something which has resulted in the worsening of their housing circumstances in order to improve their position on the Housing List, the applicant may be suspended from receiving an offer of housing for six months, unless there is a change in circumstances.

15.7.4 Following the suspension period, the application will be reinstated. The action taken by the applicant who was considered to have deliberately worsened their circumstances will no longer be taken into account and the level of points will be reviewed accordingly.

15.8 When the Council has decided to suspend an applicant from receiving offers, it will explain:

- why the Council is suspending the application;
- what this means in practical terms;
- how long the suspension will last;
- what action the applicant should take to have the suspension lifted; and
- the applicant's right to request a review of the decision to suspend their application.

## **16. Application management**

### **16.1 Review of applications**

All applicants for housing will be asked to renew their housing application annually, from the date that the last amendment was made to the housing application. Failure to respond to this request will result in the application being removed from the Housing List. The applicant will be informed of the removal of the application from the Housing List. Requests for re-instatement to the Housing List after a period of three months from removal will require the applicant to complete a new housing application form.

### **16.2 Change in circumstances**

Applicants are advised to notify the Council as soon as possible of any change in circumstances which may affect their housing application. Applicants are responsible for amending their online housing application, which will alert the CHR partners to any change. For example, a change in family circumstances, change of address and so on.

### **16.3 Cancelled applications**

On notification of an applicant's death, the application will automatically be transferred to the surviving partner residing with the applicant. Where there is no surviving partner, the application may be transferred to any other person named in the application who has been resident with the applicant for a period of six months, providing that that person is aged 16 years or over. The applications will be re-assessed within 28 days of notification of the change in circumstances to the Council.

## **17. Offer of housing**

**17.1** The Council is committed ensuring that offers of housing are fair and based on the knowledge of the needs, circumstances and preferences contained within the application for housing.

**17.2** An offer will normally be considered reasonable if it is situated in a lettings area deemed acceptable by the applicant and otherwise meets the applicant's stated housing need as detailed on the application form.

17.3 An offer of accommodation from a RSL under the Nomination Process will count as a reasonable offer, providing that the applicant has indicated willingness to be considered for such nominations.

17.4 Offers of housing are made in writing to applicants. The offer of housing will give full information about the potential allocation and should be responded to within the timescale specified.

## **18. Refusal of an offer**

18.1 If an applicant refuses a reasonable offer, they will be given the opportunity to review their preferences and options and will be provided with a realistic overview of their housing options.

18.2 If an applicant refuses two reasonable offers of housing within one year, the application will be suspended for a period of six months. During that period, no further offers of accommodation will be made.

### **18.3 Refusal due to the removal of the spare room subsidy**

18.3.1 If an applicant refuses an offer of accommodation, on the grounds of a housing benefit shortfall due to the removal of the spare room subsidy, the Council would consider this a reasonable reason for refusing an offer. This would only be permitted once. Thereafter, the size of property that an applicant will be offered will be amended.

18.3.2 For example, if in accordance with [section 8.3](#), an applicant is assessed as requiring a three bedroom property but the applicant refuses it due to the removal of the spare room subsidy, this would be considered a reasonable refusal. This would only be permitted once. The applicant would then be placed on the two bedroom property list and points adjusted accordingly.



## **19. Social housing options**

- 19.1 The Council will negotiate Nomination Arrangements with Registered Social Landlords. These arrangements will provide the Council with the right to nominate applicants from the Council's Housing List for vacancies arising within the RSL's housing stock. The arrangements will not provide the Council with the right to allocate such vacancies and such allocations will be carried out in accordance with the specific RSL's Allocations Policy and Rules. The Housing Needs Manager will inform applicants who have been nominated to an RSL of the nomination.
- 19.2 Applicants will be asked to indicate on their housing application whether they wish to be considered for a nomination to RSLs.
- 19.3 The Council has Section 5 protocols in place with RSLs in Moray. Section 5 of the Housing (Scotland) Act 2001 provides a statutory mechanism for local authorities to refer applicants assessed as homeless to RSLs for allocation of any forthcoming empty houses. This addresses the contribution that RSLs can make to tackling homelessness in the area.
- 19.4 Existing tenants of The Moray Council have the right to apply for permission to effect a mutual exchange with another public sector or Registered Social Landlord tenant. Such requests will be considered under the terms of the Housing (Scotland) Act 2001 and permission to exchange will not be unreasonably withheld. Applicants can apply for a mutual exchange on the House Exchange website.
- 19.5 The Council's Downsizing Incentive Scheme operates in conjunction with the Allocations Policy. The Scheme aims to encourage tenants who are under occupying council houses to move to smaller accommodation, thus releasing a larger property and making best use of housing stock. This voluntary scheme offers a combination of practical and financial assistance to those council tenants who qualify.

## **20. Complaints and appeal arrangements**

- 20.1 In accordance with legislation, neither any Local Member for a Lettings Area in which a vacancy is situated nor any Local Member for a Lettings Area in which an applicant currently resides will be involved in the allocation decision for that vacancy.
- 20.2 The Council operates a Complaints Procedure that is available to any applicant who is not satisfied with the way in which the application has been dealt with. Details of the Complaints Procedure can be obtained from any Council Office or Access Point.
- 20.3 Separate from the Complaints Procedure, a Review Procedure exists within the Allocations Policy to deal with instances where an applicant is dissatisfied with the decisions made on any aspect of the application. An applicant who is not satisfied with decisions made on the application should seek to discuss the situation with the Senior Housing Needs Officer or his nominated representative in the first instance. If an applicant remains dissatisfied, the applicant may write to the Housing Needs Manager to ask that the Housing Needs Review Group consider his/her case.
- 20.4 If an applicant remains dissatisfied following a decision by the Housing Needs Review Group, the applicant may write to the Head of Housing and Property, as the Council's senior housing advisor, to request that the case is considered by a Sub Committee of the Communities Committee.
- 20.5 If an applicant requires assistance to pursue a complaint, review or appeal, Council staff will provide assistance or will refer the applicant to an appropriate agency who may assist the applicant.
- 20.6 In accordance with legislation, any Sub Committee hearing will not involve either any Local Member for the Lettings Area in which a vacancy under appeal is situated or any Local Member for the area in which the applicant currently resides.

20.7 An applicant has the right to pursue any complaint of maladministration in relation to a housing application with the Scottish Public Services Ombudsman or to seek a judicial review where this is appropriate.

## **21. Performance monitoring**

21.1 The Council currently monitors its performance in relation to the time taken to relet vacant properties and the amount of rent lost as a result of vacant properties. Reports on these performance indicators are presented to the Communities Committee of the Council on a quarterly basis.

21.2 The Council will set performance standards in relation to its Allocations Policy and will monitor its achievement of these standards.

21.3 In addition to statutory performance indicators, the Council will also monitor.

Annually:

- Ethnic origin of
  - Applicants on the Housing List
  - New tenants
- The number of people who consider themselves to have a disability

Quarterly:

- The percentage of allocations by group
  - Homeless List
  - Waiting List
  - Transfer List
- The percentage of tenancy offers refused during the year

21.4 The performance indicators detailed in paragraph 21.3 will be reported to the Communities Committee. These reports will be public documents. The confidentiality of individual applicants' circumstances will be maintained.

21.5 The Council will welcome views of applicants on the Allocations Policy, the procedures adopted by the Council and how applications are dealt with.

21.6 The Council will review the operation of the Allocations Policy on an annual basis. A review report will be considered annually by the Communities Committee.