



# MORAY COUNCIL

## 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 Rapid Rehousing Transition Plan, the Council's Corporate Plan and priorities from the Moray 10 Year Local Outcomes Improvement.
- 2.2 The Allocations Policy 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 to:
- address housing need and improve access to housing;
  - meet statutory obligations to homeless households;
  - assist people with particular housing needs; and
  - promote successful, safe and sustainable communities and social inclusion.

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

### **Principles**

- 3.1 The Council's Allocations 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; and
- Local co-operation – the Council seeks to work with other housing providers in the area to best meet housing needs in Moray.

## **Objectives**

3.2 The specific objectives of the Allocations policy are to:

- address housing needs in the area and where possible, to take into account applicants' housing aspirations;
- assess applications for housing in an objective, consistent and fair manner, complying with all relevant legislation, guidance and best practice;
- make best use of the available housing stock;
- sustain and promote local communities as far as is possible;
- 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;
- inform the Council's strategic planning processes; and
- make sure that the Allocations Policy and practice is accessible to all applicants, by producing information in plain language that is clear and understandable.

## **4. Law, good practice and the Scottish Housing Charter**

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, the Homelessness etc (Scotland) Act 2003 and the Housing (Scotland) Act 2014. 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 and paragraph 4 of

schedule 2 to [the Housing \(Scotland\) Act 2014](#) 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 The Allocations Policy will adhere to housing and other relevant legislation and the [Social Housing Allocations in Scotland: Practice Guide](#) and [Social housing allocations legal framework: statutory guidance for social landlords](#).

A list of the laws which have been taken into account are detailed in

**APPENDIX I.**

The Armed Forces Covenant Duty

4.5 The Armed Forces Covenant is a promise by the nation, founded on the unique obligations and sacrifices of those who serve, or have served, in the Armed Forces, that they and their families should be treated fairly. It was created to make sure that the sacrifices made by the Armed Forces Community in the national interest should not come at significant cost when accessing goods and services in the UK. Section 343B of the [Armed Forces Act 2006](#) (as amended) defines “service people” as:

- a) members of the regular forces and the reserve forces;
- b) members of British overseas territory forces who are subject to service law;
- c) former members of any of His Majesty's forces who are ordinarily resident in the United Kingdom; and
- d) relevant family members.

4.6 In accordance with the statutory Armed Forces Covenant Duty, the Allocations Policy will have due regard to the following when admitting to and prioritising the Housing List and when allocating housing:

- a) the unique obligations of, and sacrifices made by, the armed forces;

- b) the principle that it is desirable to remove disadvantages arising for Service people from membership, or former membership, of the armed forces; and,
- c) the principle that special provision for Service people may be justified by the effects on such people of membership, or former membership, of the armed forces.

4.7 The operation of the Allocations Policy will ensure that veterans are not disadvantaged when applying for housing, particularly in relation to time spent outside of Moray as part of their Service career.

4.8 The Housing Service will endeavour to ensure that veterans and Service families are provided with knowledge about social housing services in Moray and how to access them.

### **Scottish Social Housing Charter**

4.9 This Policy promotes good practice and complies with guidance from the Scottish Government and the Scottish Housing Regulator. This includes the standards and outcomes detailed in 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:

#### **Equalities:**

Social landlords perform all aspects of their housing services so that:

- every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.

#### **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; and
- 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.

## **5. Equality and diversity**

- 5.1 The Council is committed to preventing discrimination and promoting equality of opportunity for every person who applies for housing. In accordance with the [Equality Act 2010](#), the Council seeks to ensure that the Allocations Policy does not discriminate between individuals with one or more of the following protected characteristics: age, disability, gender reassignment, marital status/civil partnership, pregnancy and maternity, race, religion or belief and sexual orientation.
- 5.2 In delivering the Allocations Policy, full consideration will be given to the Council's Public Sector Equality Duty (PSED). 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.
- 5.3 The Council will develop information and advice in a variety of formats such as large print, tape and Braille, upon request. The Council will provide interpreting services free of charge, where these are required to assist applicants.

## **6. Confidentiality and data protection**

- 6.1 The Council will ensure that any information given to it as part of the application process will be used in accordance with the General Data Protection Regulations (GDPR) and the Data Protection Act 2018. Relevant Privacy Notices will advise applicants how personal information may be collected, used, stored, shared and securely disposed of, the legal basis for doing so and what their Data Subject Rights are.
- 6.2 The Council will treat all applicants for housing with courtesy, sensitivity and with 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 conducted either over the phone (or via other secure digital options) or, if in person, will be in private interview rooms. All information will be treated in complete confidence.

## **7. Information and advice**

- 7.1 The Council will provide applicants with information and advice about accessing council housing and on their housing application. The Council will provide advice leaflets on the Allocations Policy and related processes (using plain language). It will provide details of alternative housing options and accommodation in the area, where possible.
- 7.2 The Council will make sure that the Allocations Policy and a summary version of the policy are readily available, including at Council offices and on its website, free of charge.

## **8. Eligibility criteria**

- 8.1 In accordance with the Housing (Scotland) Act 1987 (as amended), 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.



- 8.2 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.
- 8.3 The Council is committed in its support to both the UK and Scottish Government in supporting the resettlement of those displaced from their homes as a result of conflict and those in fear of persecution. Procedures are in place for dealing with re-housing requests from people who are non UK Nationals, Refugees or Asylum Seekers. These procedures take cognisance of legal duties concerning the rights of such individuals. The eligibility for Local Authority housing depends on an applicant's immigration status. If the applicant is a person who is "subject to immigration" control then they may not be entitled to public funds. As housing and homelessness assistance is classed as a public fund, anyone who holds a visa with no recourse to public funds is generally prohibited from accessing it. Each application will require to be assessed against the current applicable legislation and guidance.

## **9. The Housing List**

- 9.1 Application to the Housing List is made via the web based Housing Online application which can be accessed on the Council's website. This is an applications portal which only 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 Sexual Offences Act 2003, must contact the Council's Sex Offender Liaison Officer (SOLO) to submit an application.
- 9.2 Applicants will be required to register and create a Housing Online account on the Council website. Applicants must keep their online application up to date and inform the Council of any change to their circumstances immediately after they occur. The Council will provide advice and assistance to applicants who do not have internet access or who may need additional support to complete the online application.

9.3 The Housing List consists of:

Transfer List	Applicants who are tenants of Moray Council
Homeless List	Applicants who have been assessed by the Council as unintentionally homeless
Waiting List	All other applicants

The Council will seek to admit applicants to the Waiting/Transfer List within 10 working days of their application being received by the Council.

9.4 Trends are monitored and analysed regularly and the ratio of allocations to be made to each List will be determined annually by the Housing and Community Safety Committee and will be applied at a Moray wide level (except for properties included in the [Local Lettings Plan](#). Refer to [Section 35](#) of the policy). For 2023 – 2024 the ratio of allocations to each list is as follows:

The homeless list	50% of allocations (+/-5%)
The waiting list	30% of allocations (+/-5%)
The transfer list	20% of allocations (+/-5%)

9.5 Upon acceptance of their application to the Housing List, applicants will be emailed a link to their online account, where they can check details of their point levels at any time.

9.6 Any allocation carried out under the terms of this policy which involves an Elected Member, an employee of Housing and Property, or a close relative of an employee of Housing and Property will be authorised by the Head of Housing and Property. In their absence, authority for making decisions will be delegated to Housing Strategy and Development Manager. In accordance with [Section 20\(3\) of the Housing \(Scotland\) Act 1987 \(as amended\)](#), Elected Members are not allowed to be directly involved in the allocation of houses concerning people living in their wards.

## 10. Applicant choices

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

## **10.2 Preferred areas of choice**

10.2.1 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 want. Applicants will be considered equally for all of the letting areas that they have chosen. Applicants on the Homeless List may be considered for any available suitable property in Moray as long as it is considered reasonable in terms of homeless legislation.

10.2.2 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 planning purposes including the Housing Needs and Demand Assessment (HNDA), Local Housing Strategy (LHS), Strategic Housing Investment Programme (SHIP), RRTP and new build programmes.

## **10.3 Size of housing**

10.3.1 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.

10.3.2 For the purposes of this policy, when assessing bedroom deficiency or overcrowding (see [APPENDIX II](#)), rooms which are less than 6.5 square metres (70 square feet) in area or without natural lighting will not be included.

10.3.3 When assessing the size of property needed by a household, 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;
- children of the same sex where there is an age difference of 5 years or more between the elder and the younger child; and
- no more than two people of any age should occupy one bedroom.

10.3.4 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 / two
<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.

10.3.5 Applicants can apply for and may be offered properties larger or smaller than the standard household matching detailed above. However, points will be adjusted accordingly and overcrowding and under-occupation points may not apply.

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

10.3.7 In the event that an applicant is deemed to require a three bedroom property and is eligible for either overcrowding or under occupancy points and the applicant decided to accept two property, the award of overcrowding points or under occupancy would be adjusted accordingly. For example, a couple occupying a three bedroom Council house would receive 500 under occupancy points when being considered for a one bedroom property. The award of points, when being considered for a two bedroom property, would be adjusted to 250 under occupancy points.

#### 10.4. **Ground floor properties**

10.4.1 Applicants aged 70 years and over will only be considered for ground floor housing, unless the applicant has expressed otherwise.

10.4.2 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.

10.4.3 Applicants assessed as requiring a one bedroom ground floor property will (upon the applicant's request) also be considered for two bedroom ground

floor properties. The applicant with the highest level of need will be allocated the property.

10.4.4 In the event that an applicant is deemed to require a one bedroom ground floor property and is eligible for under occupancy points and the applicant decided to accept a two bedroom ground floor 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 500 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 250 under occupancy points.

## **11. Housing types**

11.1 The main type of housing provided by Moray Council is general needs or “mainstream housing”. However, the following house types are also provided for particular needs groups:

### **11.2 Sheltered housing**

11.2.1 This type of housing are groups of self-contained properties for adults of any age who have an assessed health / support need to live in a sheltered housing environment. There are usually communal facilities on site. The main form of support is a warden service and/or an emergency call service. Applicants must have an assessed need for sheltered housing which will be determined by the completion of a functional assessment (see Section 19).

### **11.3 Specialist housing**

11.3.1 This type of housing includes properties that meet the needs of people with a physical disability. Homes may be partially adapted or fully adapted. Applicants must have an assessed need for housing with adaptations which will be determined by the completion of a functional assessment (see [Section 19](#)). The Council may match some properties that have been specially adapted or designed to meet a person’s needs.

11.3.2 The Housing (Scotland) Act 2001 (as amended), provides the Council with the flexibility to make better use of adapted properties as short term interim accommodation, where at the point of allocation there is no applicant requiring the adapted property. Where possible, adapted properties be allocated to those applicants who need them. If no applicant on the list requires that adaptation at the point of relet, to avoid creating lengthy void times and incurring rent loss, the property will be used for short term interim accommodation. It will be allocated to an applicant who does not need the adaptation with the proviso that they will be expected to move to alternative accommodation in the event that the property is required for a household who needs the adaptation.

## **12. How applications for housing are prioritised**

12.1 In line with [Section 20 of the Housing \(Scotland\) Act 1987](#) (as amended), 'reasonable preference' must be given to certain groups. Priority must be awarded to:

- people who are homeless or threatened with homelessness through no fault of their own and have unmet housing needs;
- social housing tenants who are under occupying their home; and
- people who are living in unsatisfactory housing conditions and have unmet housing needs.

### **Unmet housing need**

12.2 Applicants are considered to have unmet housing needs if they have a housing need which is not capable of being met by their current housing circumstances. For example, an applicant with disabilities whose housing needs can only be met in social housing because it is not possible to make essential adaptations to their current home.

### **13. Factors that cannot be taken into account**

13.1 Section 20 of the Housing (Scotland) Act 1987 (as amended) details certain factors which the Council cannot take into account when allocating housing.

These are:

- a) the length of time an applicant has lived 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 Housing (Scotland) 2001) for persons of a particular age group or by persons with particular needs.



g) the income of the applicant and their family.

13.2 When deciding whether an applicant is eligible for the allocation of housing, social landlords cannot impose the following requirements:

- a divorce or judicial separation to be obtained; or
- the applicant to no longer be living with, or in the same house as, some other person.

#### **Applicants resident outwith Moray**

13.3 In allocating housing, the Council can take no account of whether the applicant is resident in Moray if:

- they are employed, have been offered employment or are seeking employment in the area; or
- they need to move into Moray to be near a relative or carer; or
- they have a special social or medical reason for requiring to be housed in Moray; or
- they want to move to the area because they are fleeing harassment or at risk of domestic abuse.

### **14. The assessment of priority for housing**

14.1 The Council will assess all applicants for housing on a fair and consistent basis whilst giving priority to those in the greatest housing need. All applications will be assessed and points awarded for a range of circumstances, based on an assessment of an applicant's housing needs. These categories and levels of points are summarised in [Section 15](#).

14.2 The position on the Transfer or 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.

14.3 Applicants on the Homeless List will have no points awarded whilst they remain on this list. Their priority will be determined by the date of the

homeless application unless there are exceptional circumstances that merit an urgent offer of accommodation.

- 14.4 Applicants are responsible for notifying the Council of any changes in their circumstances and for keeping their Housing Online application up to date. Any change in an applicant's circumstances, may affect the points that their housing application has been awarded and their position on the Housing List.

## 15. Priorities and points

Summary of priorities and points level		
Priority category		points
Homelessness		0
Under occupancy (per bedroom short)	Transfer tenants living in social housing	250
	Waiting list applicants	50
Downsizing scheme		500
Domestic abuse		500
Overcrowding		100
Periodic contact		50
Functional housing need		0 – 500
Leaving institutional/supported care		350
Underuse of specialist housing		250
Poor housing conditions	Below Tolerable Standard and a Closing / Demolition Order has been served	250
	Below Tolerable Standard and lacks 2 or more facilities*	150
	There are minor deficiencies to the state of repair of the property, which are through no fault of the tenant; or The property is affected by condensation and mould due to the poor construction.	100
Sharing amenities		100

Summary of priorities and points level		
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.	<b>40</b>
	Residing in a second floor or over flat or maisonette where the living accommodation is on the second floor.	<b>75</b>
Tied accommodation		<b>350</b>
Key workers		<b>400</b>
Care and support		<b>150</b>
Exceptional circumstances		<b>0 – 500</b>

## 16. Homelessness

- 16.1 Applicants who have been assessed as homeless or threatened with homelessness under the Housing (Scotland) Act 1987, as amended by the Housing (Scotland) Act 2001 and the Homelessness etc (Scotland) Act 2003 and who have an unmet housing need will be placed on the Homeless List. Applicants on the Homeless List will receive no points but are prioritised in accordance with the date of their homeless application.
- 16.2 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.
- 16.3 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, the sustainability of the accommodation and stock availability, turnover and legislative requirements.

## 17. Under occupancy

- 17.1 An applicant's current accommodation will be assessed in accordance with Section 10.3.2 of this policy and points for under occupation awarded where there is an additional bedroom which is surplus to the requirements of the household.

For <b>transfer</b> tenants living in <b>social housing</b> , for each bedroom surplus to requirements.	<b>250 points</b>
For <b>waiting list applicants</b> , for each bedroom surplus to requirements.	<b>50 points</b>

## 18. Overcrowding

- 18.1 [Part V11 of the Housing \(Scotland\) Act 1987](#) (as amended) defines overcrowding (see [APPENDIX II](#)). An applicant's current accommodation will be assessed in accordance with Section 10.3.2 of this policy 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.
- 18.2 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.
- 18.3 In cases where an additional bedroom need arises from pregnancy, applications will be assessed for the size of property needed by the applicant's household. Overcrowding points will not be awarded to the application until the Council has received confirmation that the baby has been born.
- Periodic contact**
- 18.4 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.

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

18.6 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 entitlement upon assessment of their application.

## **19. Functional housing need**

19.1 Applicants applying for housing because they think that their home is not suitable due to a health condition and/or a disability will be required to 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. The clinical condition or disability must be seen in the context of whether a move to different housing would make a significant difference to the applicant's quality of life.

19.2 The policy will be reactive in situations where an application includes a person with rapidly progressive conditions which has a life limiting terminal diagnosis (for example Motor Neurone Disease) and where their current home is unsuitable for their current or future needs.

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

19.4 Housing functional assessments are completed by the Housing Occupational Therapist (or their representative) who will award functional assessment points in accordance with the points criteria detailed at Section 19.5. In more complex cases or where further evidence is needed to make a decision, the Housing Occupational Therapist (or their representative) will request

additional information from the applicant and/or any of the services/professionals included in the completed assessment form.

19.5 Points may be awarded as follows:

Category	Criteria	Points
A	<p>Awarded where it has been established by health professionals that:</p> <ul style="list-style-type: none"> <li>the person can no longer remain in their current home; and</li> <li>there is a critical and urgent need for the person to move to accommodation which will support them to carry out essential daily living activities or will help with the provision of essential health and social care needed to carry out daily living activities.</li> </ul>	<b>500</b>
B	<p>Awarded where</p> <ul style="list-style-type: none"> <li>the person is long term and substantially disabled and this is likely to increase whilst living their current home; and</li> <li>it has been established by health professionals that the person cannot safely access and use facilities in their home needed to carry out essential activities of daily living.</li> </ul>	<b>350</b>
C	<p>Awarded where it has been established by a health professional that a change of property would significantly increase the person's level of safety, ability and independence when completing essential activities of daily living.</p>	<b>150</b>
D	<p>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 activities of daily living.</p>	<b>50</b>

Category	Criteria	Points
E	<p>No points will be awarded where there are no recognised barriers in place for a person to carry out their day to day activities.</p> <p>No points will be awarded where Moray Council can provide alternative solutions to the reported difficulty in completing essential activities of daily living (e.g. aids and adaptations).</p>	<b>0</b>

\* Activities of daily living are the essential areas of self-care and general activities in and around the home that people need to do every day.

- 19.6 In instances where there is more than one person in a household with a health issue or disability which may mean that their current home is not suitable, only one award of points will be given and this will be based on the applicant with the highest need.
- 19.7 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.
- 19.8 The appeals panel will write and advise the applicant of the outcome of the review and of the reasons for the decision.
- 19.9 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.

19.10 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.

## **20. Downsizing**

20.1 The Council's Tenant Downsizing Incentive Scheme aims to assist the Council to make best use of housing stock. It encourages:

- tenants who are under occupying council houses to move to smaller accommodation, thus releasing a larger property; and
- tenants who are living in specialist housing (of any size) which their household no longer needs to move to alternative suitable accommodation.

This voluntary scheme offers a combination of practical and financial assistance to those council tenants who qualify.

20.2 In order to ensure that the Council can make best use of its stock and in recognition of the sacrifice that the applicants make, once accepted on to the Downsizing Incentive Scheme, applicants will be awarded 500 points.

20.3 Applicants with downsizing points will receive unlimited offers and will not have their application suspended for refusing a reasonable offer of housing.

**500 points**



## **21. Domestic abuse**

- 21.1 Where a person requires urgent rehousing as a result of domestic abuse, 500 points may be awarded to their housing application. When considering if someone has experience of domestic abuse, the policy will adhere to the Scottish Government's definition.

“Domestic abuse (as gender-based abuse), can be perpetrated by partners or ex-partners and can include physical abuse (assault and physical attack involving a range of behaviour), sexual abuse (acts which degrade and humiliate women and are perpetrated against their will, including rape) and mental and emotional abuse (such as threats, verbal abuse, racial abuse, withholding money and other types of controlling behaviour such as isolation from family or friends).

This definition will apply to anyone experiencing domestic abuse including men, lesbian, gay, bisexual, transgender people and gender non-binary people (LGBT+).

- 21.2 The Council is committed to ensuring that those who experience domestic abuse are given as much support and assistance to rebuild their lives away from the abuse and harm. Housing provision is a key element of support and the Council recognises the importance of housing advice and flexible housing options which are person centred and prioritise the person's safety and well-being. This will support the person to make informed choices regarding their housing situation.
- 21.3 Where someone discloses that they are experiencing domestic abuse and it is not possible for them to, or they opt not to remain in their home, the focus will be on preventing homelessness where possible and maximising opportunities to access settled accommodation.
- 21.4 There may be instances where the evidence to substantiate abuse is required. The Council may request evidence from agencies etc but the perpetrator will never be contacted.

- 21.5 Those who are recovering from the impact of domestic abuse may have physical and mental health issues which may be complex and long lasting and which may come under the definition of disability under the Equality Act 2010. The Council will have due regard for its Public Sector Equality Duty and ensuring that any discrimination is prevented.

**500 points**

## **22. Leaving institutional/supported care**

- 22.1 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/specialist supported housing is no longer appropriate.	<b>350 points</b>
Where an applicant is leaving a care environment. For example, supported accommodation, supported lodgings or foster care.	
Where a kinship care placement is no longer appropriate.	

- 22.2 For care experienced young people, points will be awarded up to the point that they are permanently housed. Thereafter if they experience housing difficulties and reapply for council housing (up to the age of 26) a referral would be made to the Housing Needs Review Group to consider their application.
- 22.3 Although points may be awarded, the applicant may be bypassed for an offer of housing if there is not a valid and up to date support plan in place which confirms that the applicant will have sufficient support to assist them to sustain their tenancy (see Section 32).

## **23. Underuse of specialist housing**

23.1 Specialist housing can help people to achieve and maintain personal independence and can improve their wellbeing and quality of life. The Council will strive to ensure the effective allocation of specialist housing and to make best use of housing stock. There can be situations where the person who the property was allocated for is no longer living there and nobody else living there has a need for specialist housing.

23.2 For the purpose of the Allocations Policy, specialist housing is defined as any social housing property in Moray which meets the following criteria:

- A fully adapted/accessible ground floor property; or
- A property:
  - with wheelchair accessible access (either level or ramped); and
  - has a wheelchair accessible level access shower or wet room facilities on the ground floor; and/or
  - has sufficient space to permit a wheelchair dependent person to live there (as set out in “Housing for Varying Needs” 1998 or subsequent updated design guidance).

This above criteria will encompass new build properties which are designed to accessible standards.

23.3 Underuse of specialist housing points may be awarded to households living in specialist housing who no longer have a need for this type of housing and who want to move.

23.4 Applicants will only be eligible for underuse of specialist housing points if:

- the property is defined as specialist housing (as set out at 23.2); and
- the applicant’s household was allocated the property due to the existence of a specific need for specialist accommodation within their household; and
- they are moving from specialist housing to alternative housing which is not defined as specialist housing.

**250 points**

## **24. Poor housing conditions**

- 24.1 Applicants in the private sector (including caravans) will be awarded poor housing condition points, if during an inspection, Officers have identified any of the following:

The property is deemed to be Below Tolerable Standard and a Closing / Demolition Order has been served	<b>250 points</b>
The property is deemed Below Tolerable Standard and lacks 2 or more facilities*	<b>150 points</b>
There are minor deficiencies to the state of repair of the property, which are through no fault of the tenant; or The property is affected by condensation and mould due to the poor construction.	<b>100 points</b>

\*Facilities are defined as sink, wash-hand basin, bath or shower, an inside toilet and hot and cold water supply to facilities (refer to **APPENDIX III**).

## **25. Sharing amenities**

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

- 25.2 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**

## **26. Flatted/maisonette accommodation**

- 26.1 Applicants with children under 5 years of age will not be considered for flatted/maisonette accommodation which has communal access and is above ground floor, unless the applicant has expressed an interest in being housed in this property type.
- 26.2 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	<b>40 points</b>
Residing in a second floor or over flat or maisonette where the living accommodation is on the second floor or above	<b>75 points</b>

## **27. Tied accommodation**

- 27.1 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. However, in instances of relationship breakdown, points will not be transferred to family members. Applicants must provide valid evidence of the loss of accommodation.
- 27.2 Applicants who are serving Armed Forces personnel and who occupy service accommodation which is due to be terminated 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 which is issued six months before discharge.
- 27.3 Points for tied accommodation will be awarded up to six months before the applicant's tenancy ends. Applicants with tied accommodation points will not be penalised in the event that they are not able to accept an offer of housing due to restrictions in terminating their current tenancy.

**350 points**

## **28. Key workers**

28.1 The aim of key worker points is to offer a non-permanent accommodation option for a specific period of time in order to assist and support people moving into Moray who may otherwise not be able to accept employment. This follows research which identified particular issues in the public sector, notably NHS and local authority. This approach will provide applicants with sufficient time to source an alternative permanent housing solution and will assist to resolve local recruitment issues associated with the lack of available housing.

28.2 In accordance with [Schedule 6 of the Housing \(Scotland\) Act 2001](#) (as amended), tenancies granted to applicants with key worker points will be a short Scottish secure tenancy (SSST), which has fewer rights as a Scottish secure tenancy and security of tenure is limited to the term of the SSST.

28.3 Applicants may be eligible for the award of key worker points if they meet the following criteria:

- They are professional staff required to fill a role in the public sector, such as NHS health care professionals (e.g. consultants, GPs, physiotherapists, speech and language therapists, nurses) or teachers or technical staff where skills cannot be filled locally and recruitment shortages can be evidenced by prospective employer.
- They live outwith Moray when they apply for housing; and
- They will accept a short Scottish secure tenancy (SSST).

In determining the award of key worker points, the Council will retain absolute discretion regarding whether a role is considered to be a 'key worker' and whether the allocation of housing will alleviate a recruitment shortage. Points will be awarded upon proof of eligibility.

28.4 In establishing if an applicant may qualify for key worker points, the Council will require the applicant's employer to provide confirmation and support for a request for key worker points.

- 28.5 In the event that the applicant with key worker points moves into temporary accommodation in order to commence their employment and is still seeking a permanent housing solution, the key work points will remain valid for 6 months from the date they move into Moray.
- 28.6 A SSST granted to applicants with key worker points will last a minimum of six months (Section 34 of the Housing (Scotland) Act 2001, as amended). There is no maximum period for the term of a SSST granted under this ground. There will be no SST offered to key worker tenants. In order to make best use of housing stock, the Council will seek to ensure that SSSTs granted to a key worker lasts no longer than 12 months. Applicants will be advised of this prior to signing a SSST. The operation of the SSST (including termination) will be in accordance with the Short Scottish Secure Tenancy Policy and the Housing (Scotland) Act 2001, as amended.

**400 points**

## **29. Care and support**

- 29.1 The award of care and support points will assist to alleviate and reduce demand on care and support services and promote living independently at home. Care and support points may be awarded to applicants who need to move to either:
- provide essential care and support to a vulnerable person which will enable them to continue to live independently at home and reduce demand on statutory care services; or
  - receive essential care and support which will allow them to live independently at home, reduce demand on statutory service and/or eliminate admission to a care home. For example, if the applicant is vulnerable and needs to be closer to their carer; and
  - it is not reasonable to deliver or receive the level of care and support required, unless they live closer to the person in receipt of / person providing the care and support.

- 29.2 The applicant will need to provide evidence of the care and support needs before points will be awarded to their application. For example, evidence of entitlement to relevant benefits such as Carers Allowance Supplement or Disability Living Allowance, Personal Independence Payment or Adult Disability Payment or other supporting evidence from a professional agency (e.g. Social Work or NHS).

**150 points**

### **30. Exceptional circumstances**

- 30.1 There are occasions where the Council needs to use discretion and allocate housing outwith the core Allocations Policy. 'Exceptional circumstances' points may be awarded in cases which cannot be appropriately considered within the Allocations Policy.
- 30.2 Applicants may request that their circumstances are referred to the Housing Needs Review Group for consideration of the award of such points. Any award of 'exceptional circumstances' points may only be made by the Housing Needs Review Group. A transparent and robust audit trail will be maintained in order to evidence accountability in the decision making process.
- 30.3 Exceptional circumstances points may range from **0 to 500 points**, depending on the specific circumstances of the applicant and the availability of housing.

### **31. Management transfers**

- 31.1 There may be occasions when the Council needs to move one or some of its current tenants. A management transfer is used to assist in urgent re-housing cases where the allocation policy would not deliver a resolution quickly enough.
- 31.2 Management transfers will only be granted where there is a serious risk to the tenant should they remain in the current tenancy or where, for compelling



and exceptional reasons, the Council wants to re-house the applicant as a matter, or urgency. Examples of this are:

- Information obtained from Police or similar agency that the person is under threat if they remain in their present accommodation.
- Requests regarding child or adult protection services to remove an individual or family for personal safety reasons, e.g. under a Multi-Agency Risk Assessment Conference (MARAC).
- Other reasons as deemed necessary by the landlord such as a serious housing management problem or if a property or properties are being demolished or where repairs will take a long time to complete.

31.3 A recommendation report for a management transfer may be submitted by Officers for consideration by the Housing Services Manager, whose decision must be sanctioned by the Housing Needs Manager. In order to ensure a transparent and accountable process is upheld, a robust audit trail of all decisions made will be maintained.

## **32. Bypassing applications**

32.1 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 health condition or disability 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;
- the applicant does not reside in Moray and does not meet the criteria specified in Section 9 of the Policy;
- the applicant does not have a support plan; and
- the applicant's circumstances have changed and information is awaited or required to enable their application to be re-assessed.

32.2 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;
- make sure 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.

### **33. Suspensions**

33.1 A suspension happens when someone has been assessed for and accepted on to the Housing List 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.

33.2 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 make sure that a balanced approach is taken and that the urgency of the applicant's housing need is of paramount importance.

33.3 Applicants may be suspended from receiving an offer of housing (unless specified exceptions to this exist) in the following circumstances:

- (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 antisocial behaviour (through either eviction or the granting of an Antisocial 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. Each case will be assessed on its own merit;
- (iii) where an applicant has refused two reasonable offers of housing within one year. 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 42](#) of this policy.

- 33.4 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 they can practicably be expected to do to avoid falling into arrears.
- 33.5 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.
- 33.6 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.

#### **34. Deliberate worsening of circumstances**

- 34.1 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.

- 34.2 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.
- 34.3 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.
- 34.4 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.
- 34.5 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.

## **35. Local Lettings Plans**

- 35.1 The Council may consider the use of local lettings plans 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 the Council 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.

- 35.2 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. The Housing and Community Safety Committee will consider proposals for the declaration of any local lettings plan.
- 35.3 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.
- 35.4 Where a local lettings plan is agreed for a specific lettings area, the Council will ensure that applicants are advised of the Plan.
- 35.5 Any local lettings plan will be agreed for a specified period by the Housing and Community Safety Committee or any other relevant Committee.
- 35.6 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.
- 35.7 All agreed Local Lettings Plans will be published on the Moray Council website.

### **36. Sensitive lets**

- 36.1 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.
- 36.2 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 wellbeing. The Council will ensure that the needs of the applicant and the suitability of the property match.
- 36.3 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 the knowledge it has about the property, its location or neighbours.
- 36.4 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?
- 36.5 The Council will monitor the use of sensitive lets in order to make sure that there is no pattern of bypassing particular groups.

### **37. Application management**

#### **Review of applications**

- 37.1 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. 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.

### **Change in circumstances**

- 37.2 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. For example, a change in family circumstances, change of address and so on.

### **Cancelled applications**

- 37.3 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.

## **38. Offer of housing**

- 38.1 The Council is committed to ensuring that offers of housing are fair and based on the knowledge of the needs, circumstances and preferences contained within the application for housing.
- 38.2 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 and the necessary pre-tenancy checks have successfully been completed.
- 38.3 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.



- 38.4 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.

### **39. Tenancy types**

- 39.1 Below are the types of tenancy agreements which the Council may offer housing applicants:

#### **Scottish secure tenancy (SST)**

- 39.2 In most circumstances an applicant will be offered a Scottish secure tenancy. Unless a tenant ends the tenancy, abandons the tenancy or the council obtains a court order to end the tenancy, the SST will usually continue for as long as the tenant wants.

#### **Short Scottish secure tenancy (SSST)**

- 39.3 The Council may offer a short Scottish secure tenancy for a minimum term of 6 months in specific circumstances as set out in the Short Scottish secure tenancy (SSST) Policy. These circumstances will apply if:
- there is evidence that an applicant or someone in their household or a visitor to their home has been involved in antisocial behaviour in or near their home within the last three years;
  - an applicant or someone in their household has been evicted for antisocial behaviour or subject to an antisocial behaviour order within the last 3 years;
  - an applicant is moving to Moray take up employment; or
  - an applicant needs housing support to help them maintain their tenancy;
- 39.4 At the end of the term of the SSST the Council can:
- offer a full SST (some types of SSST automatically convert to SSTs after 12 months);
  - offer a further SSST; or
  - seek repossession.

39.5 In all cases the Council will serve an applicant with a notice informing the applicant that they are being offered a SSST. This notice will also state why they are being offered a SSST and the period for which the SSST is being offered.

39.6 For some types of short Scottish secure tenancies the Council must provide, or ensure the provision of, housing support services. If an applicant is unwilling to cooperate with this support, the tenancy offer may be withdrawn.

#### **40. Refusal of an offer of housing**

40.1 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.

40.2 If an applicant refuses two reasonable offers of housing within one year, the application will be suspended for a period of six months (except where the stated exemptions apply). During that period, no further offers of accommodation will be made.

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

40.3 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.

40.4 For example, if in accordance with section 10.3.2, 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.

#### **41. Social housing options**

- 41.1 The Council will negotiate Nomination Arrangements with Registered Social Landlords (RSLs). 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 Council will inform applicants who have been nominated to an RSL of the nomination.
- 41.2 Applicants will be asked to indicate on their housing application whether they wish to be considered for a nomination to RSLs.
- 41.3 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.
- 41.4 Existing tenants of 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.

#### **42. Review and complaints arrangements**

- 42.1 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.

- 42.2 If an applicant needs help to make and follow up on a complaint, review or appeal, Council staff will provide guidance or will refer the applicant to an appropriate agency who may assist the applicant.

**Request for a review of a decision**

- 42.3 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.
- 42.4 An applicant who is not satisfied with decisions made on their application for housing can request a review. The applicant should make the request in writing to the Senior Housing Needs Officer. The request for a review should include the grounds on which it is made.
- 42.5 The 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 applicant.
- 42.6 If an applicant remains dissatisfied, the applicant may write to the Housing Needs Operations Manager to ask that the Housing Needs Review Group consider their case.
- 42.7 The Housing Needs Review Group will convene monthly to consider any appeals and housing applications in certain circumstance, for example the award of exceptional circumstances points.
- 42.8 The Housing Needs Review Group is comprised of the Housing Needs Operations Manager (Allocations/Homelessness), an Area Housing Manager, a Housing Needs Officer, the Housing Needs Operations Manager (Support) or the Supported Accommodation Manager and a minute taker. At the review group hearing, the senior officer who carried out the review of the original decision will present the reasons and rationale for their request/decision.

42.9 The review group will decide:

- if the decision made on the application will remain or be overturned;
- the outcome of certain housing applications. For example if exceptional circumstances points should be awarded and what level these will be.

42.10 The Housing Needs Review Group will write and advise the applicant of the outcome of the appeal and of the reasons for their decision within 7 days.

42.11 Where the Housing Needs Review Group uphold the decision to offer a SSST or convert a SST to an SSST and the applicant/tenant is still not satisfied, they will have a right of appeal to the Sheriff Court (Housing (Scotland) Act 2001, Section 38 for an offer or by summary application under Section 35 for a conversion.

42.12 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.

### **Complaints**

42.13 The Council has a Complaints Policy which details Council's complaints process which is available to any applicant who is not satisfied with the way in which the application has been dealt with. The Complaints Policy and explanatory information are available on the Council website and from any Council Office or Access Point.

## **43. Performance monitoring**

43.1 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 Economic Growth, Housing and Environmental Sustainability Committee or any other relevant Committee on a quarterly basis.

- 43.2 The Council will set performance standards in relation to its Allocations Policy and will monitor its achievement of these standards.
- 43.3 The performance indicators are reported to the Housing and Community Safety Committee or any other relevant Committee. These reports will be public documents. The confidentiality of individual applicant's circumstances will be maintained.
- 43.4 The Council will welcome the views of applicants on the Allocations Policy, the procedures adopted by the Council and how applications are dealt with.
- 43.5 The Council will review the operation of the Allocations Policy on an annual basis. A review report will be considered annually by the Housing and Community Safety Committee.

#### **44. Review of the Allocations Policy and consultation arrangements**

- 44.1 If the monitoring of performance detailed in Section 43 suggests that there are areas where the policy needs to be improved, the policy may be amended or a further review may be undertaken. If any changes to be made are substantive, the Council will consult with tenants, applicants and other key stakeholders before making these changes.
- 44.2 The Council will undertake a full review of this policy every three years or earlier if required by changes to legislation or guidance. In line with housing law, consultation will be ongoing during the review process and not just once the policy has been finalised.
- 44.3 Moray Council will consult the following groups before making or altering the Allocations Policy:
- Applicants on the Housing List;
  - Council tenants;
  - Registered tenant organisations; and
  - Any other stakeholders considered relevant.

44.4 Moray Council will prepare and publish a report on the consultation following the consultation on the Allocations Policy.

### Legislative framework

The following legislation regulates the legal framework for the Allocations Policy:

- The Human Rights Act 1998
- The Data Protection Act 2018
- The Housing (Scotland) Act 1987
- The Housing (Scotland) Act 2001
- The Homelessness etc (Scotland) Act 2003
- The Housing (Scotland) Act 2006
- The Housing Scotland Act 2014
- The Equality Act 2010
- Immigration and Asylum Act 1999
- Protection from Harassment Act 1997
- Domestic Abuse (Protection) (Scotland) Act 2021
- The Matrimonial Homes (Family Protection) (Scotland) Act 1981
- The Civil Partnership Act 2004
- The Family Law Act 2006
- The Children (Scotland) Act 1995
- Adult Support and Protection (Scotland) Act 2007
- Management of Offenders etc (Scotland) Act 2005
- The Sexual Offences Act 2003

The above list is not exhaustive.



## Overcrowding

[Part VII of the Housing \(Scotland\) Act 1987](#) (as amended) provides the legal definitions of overcrowding based on the room standards and the space standard. If either or both of them apply then a dwelling will be statutorily overcrowded. This is an offence unless the overcrowding falls within one of the exceptions.

### The room standard

The room standard is set out in Section 136 of the Housing (Scotland) Act (as amended) and is based on the number and sex of people who must sleep in one room. The room standard will be contravened in a situation where two people of the opposite sex must sleep in the same room. The exceptions to this rule are:

- cohabiting or married couples who can live in the same room without causing overcrowding
- children under the age of ten who are completely ignored in the calculation.

'Room' is defined as being available for 'sleeping accommodation' only if it is of a type normally used in the area as a bedroom or a living room. However the standard does not limit the number of people of the same sex who can live in the same room (but see the space standard).

### The space standard

The space standard is set out in Section 137 of the Housing (Scotland) Act (as amended) and is based on the number of people who may sleep in a dwelling of a particular size. The number of people depends on the size of the room, the number of living rooms and bedrooms in the building and the age of the occupants. There are two ways of calculating the space standard and both should be applied. The method that gives the lower figure for the number of persons entitled to occupy will be the statutory limit.

Method one	
Number of rooms	Number of people
1	2
2	3
3	5
4	7.5
5+	2 per room

<b>Method two</b>	
<b>Floor area of room (sq. feet)</b>	<b>Number of people</b>
110	2
90 - 109	1.5
70 - 89	1
50 - 70	0.5

For both the above assessments:

- children under one year old are not counted
- children under ten years old but not under one count as a half
- rooms under 50 square feet are not included
- a room is counted if it is available as sleeping accommodation

### **Below Tolerable Standard**

The tolerable standard criteria are detailed in section 86 of the Housing (Scotland) Act 1987. The criteria states that the dwelling house should:

- be structurally stable: this provision is mainly aimed at problems of subsidence
- be substantially free from rising or penetrating damp (it is important to note the use of the term 'substantially free', not 'completely free', and to note also that the standard does not extend to condensation dampness, although that may be covered by the next point)
- have satisfactory provision for natural and artificial lighting, for ventilation and for heating. Adequate natural lighting under good weather conditions should be available in rooms intended for sleeping, sitting or eating meals. A test for this is whether normal domestic activities can be undertaken without the aid of artificial light. Ventilation is thought to mean that fresh air can circulate easily to all rooms
- have satisfactory thermal insulation
- have an adequate piped supply of wholesome water available within the house. The water supply is for domestic use
- have a sink provided with a satisfactory supply of both hot and cold water within the house
- have a water closet, or waterless closet, available for the exclusive use of the occupants of the house and suitably located within the house. The toilet should be accessible to occupants without compromising their privacy and should be adequately lit and ventilated
- have a fixed bath or shower and a wash-hand basin, all of which must have a satisfactory supply of hot and cold water and be suitably located in the house
- have an effective system for the drainage and disposal of foul and surface water. Factors taken into account are the capacity of the system, susceptibility to leakages or blockages and whether foul air from sewage can enter the building
- have a supply of electricity, where electricity is supplied to the property, that complies with the relevant requirements in relation to electrical installation for that supply and is adequate and safe to use

- have satisfactory facilities for the cooking of food within the house. This does not necessarily mean that a cooker is actually installed, but as a minimum that there is the means of installing a gas or electric appliance
- have satisfactory access to all external doors and outbuildings. If there is no adequate means of access to a house then there may be a breach of the landlord's repairing obligation.
- satisfactory equipment installed for detecting fire, and for giving warning of fire or suspected fire
- satisfactory equipment installed for detecting, and for giving warning of, carbon monoxide present in a concentration that is hazardous to health

A house will not meet the tolerable standard if fails to fulfil one or more of the criteria above.

('House' is defined as including a flat and any yard, garden and outhouse etc. that belongs to it or is usually enjoyed by it).

### **Closing orders**

If the local authority is satisfied that a house does not meet the tolerable standard and should be demolished then it can make a closing order. A closing order is used where the house in question forms part of a building and there are other houses in the building that meet the tolerable standard. A closing order prohibits the use of the house for human habitation.

### **Demolition orders**

A local authority can make a demolition order if is satisfied that the house(s) in question do not meet the tolerable standard, and the house(s) ought to be demolished.

If the building is listed or subject to a building preservation order then the authority has to issue a closing order instead.