



Prison Discharge Protocol
between
The Moray Council
and
The Scottish Prison Service(SPS)

The Moray Council Housing Needs Service

HMP/YOI Grampian

SPS Polmont

SPS Low Moss

SPS Cornton Vale

SPS Barlinnie

SPS Perth

SPS Porterfield, Inverness

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1. Purpose of the protocol

- 1.1 Offenders are a group at significant risk of homelessness following a custodial sentence and the lack of appropriate accommodation on release can increase the risk of reoffending. The purpose of the protocol is to create a framework that will ensure that a coordinated approach is taken to accommodate offenders and prevent homelessness amongst people returning from custody to Moray.
- 1.2 The Prison Discharge Protocol seeks to address the housing needs of people in custody, during and following a custodial sentence and details the roles, responsibilities and processes to be followed by each of the partners to make sure that those housing needs are met
- 1.3 It covers two groups of offenders: those with existing tenancies where action needs to be taken to sustain that tenancy and those with an identified housing need, requiring advice, assistance, accommodation, housing support or facing homelessness.
- 1.4 Any offender, who is subject to Multi-Agency Public Protection Arrangements (MAPPA) and returning to Moray, will be dealt with in accordance with MAPPA procedures and the National Accommodation Strategy for Sex Offenders (NASSO).

2. Scope of the protocol

- 2.1 The protocol supports:
 - The Moray Council's duties towards the prevention of homelessness and is in line with the Scottish Government's [Code of Guidance on Homelessness 2005](#);
 - The Single Outcome Agreement's aim of 'Ensuring security and Community Safety' and 'Protecting and supporting the vulnerable and those in need'; and

- The Scottish Prison Service (SPS) commitment to effective community reintegration to reduce reoffending ([SPS Corporate Plan 2012-15](#)).

2.2 The protocol aims to develop a culture of understanding, effective forward planning and communication. This will enable the Moray Council and Scottish Prison Service (SPS) to meet their statutory and organisational responsibilities. This will ultimately achieve better outcomes for offenders and will ensure that staff time is managed efficiently and effectively.

2.3 The protocol aims to prevent discrimination on any grounds and in particular, race, gender, sexual orientation, ethnic origin, religious belief, disability/illness or age in line with the [Equalities Act 2010](#). The Moray Council will ensure the promotion of equal opportunities by publishing information and documentation in different languages and other formats such as large print, tape and Braille, as required.

3. Background

3.1 Research demonstrates that ex-offenders leaving prison are at relatively high risk of becoming homeless, which is a key factor associated with re-offending.

3.2 Key housing difficulties

Approximately one third of offenders lose their home whilst in prison (SEU, 2002), not least due to loss of entitlement to Housing Benefit (i.e. where a tenancy is terminated by the landlord after Housing Benefit payments cease). Over two-thirds of offenders lose contact with their family, or experience a breakdown of family relationships when they go into prison.

3.3 Finding appropriate housing is a very important factor for reintegrating ex-offenders back into the community. Research evidence identifies a

number of particularly critical periods for offenders in terms of preventing post-release homelessness:

- early action to address housing issues on entering custody;
- finding accommodation for release;
- post-release support.

4. Sharing of information

- 4.1 The purpose of sharing information is to ensure the early identification, facilitation and management of the pre-release planning process of an offender with housing needs. This exchange of information will assist in the ability to sustain an existing tenancy, identify available housing options and in securing appropriate accommodation for release. This type of clear and appropriate information sharing is proven to aid the successful reintegration of the offender into the community benefits the wider community in that there is a reduced risk of further re-offending and overall enhanced community safety.
- 4.2 On arrival at any SPS Prison, during the induction process, prison authorities will obtain an offenders' written consent to share information.
- 4.3 Information may be shared in accordance with the [Data Protection Act 1998](#) and the [Freedom of Information Act 2002](#).
- 4.4 The Housing Needs Service will make sure that information provided will be treated in confidence and will not be shared with any other party without first gaining the written consent of the offender.

5. Referral process

- 5.1 Following completion of the offender's initial assessment at their induction (see Section 6 below), any referral made to the Moray Council Housing Needs Service from SPS staff should be emailed to the Housing Support Co-ordinator carol.chambers@moray.gov.uk.

- 5.2 The referral should include full details of:
- offender's name and date of birth;
 - referring institution details, including contact officer details;
 - the offender's housing situation;
 - the proposed date of release for the offender;
 - the available facilities at the prison, such as video conferencing;
and
 - any communication, literacy or translation difficulties or needs of the offender.
- 5.3 Staff from the SPS Prison should make referrals to the Moray Council Housing Needs Service on a regular basis where possible. In the case of short term offenders ad hoc referrals should be made as and when necessary so their needs can be addressed.
- 5.4 The Housing Support Co-ordinator will assess the referrals and allocate them to staff within the Moray Council's Housing Options Team and Support Team who will make arrangements to interview the offender.
- 5.5 Initial contact, where possible, will be by telephone, group call or via a video conferencing link until the level of housing need and any associated actions and or support is established.
- 5.6 Once the level of need or support has been established, and where there are more tangible actions and/or enhanced levels of support required, for example, paperwork needs to be completed personally or keys need collected, etc and no other alternative options are available, staff will arrange to visit the offender at the Link Centre of the SPS Prison.
- 5.7 All of the above mentioned methods of contact will take place at the allocated times as arranged by the prisons.

6. On arrival at prison

6.1 Within 2-5 days of arrival in prison, each offender will have an induction interview during which an initial assessment of their needs will be completed. This will identify any tenancy and accommodation needs they may have along with any related issues, for example rent, benefit or support issues.

6.2 The following should be discussed and where appropriate further referrals made.

Action	By Who
Complete initial housing assessment - identify housing status and action taken or needed to secure, maintain or terminate existing tenancy.	Prison staff to complete assessment.
Contact landlord about offenders status and interventions required for maintaining their tenancy and/or their property (See Section 7 below).	Prison staff to make referral to the Moray Council Housing Support Co-ordinator (if council tenant) or other relevant landlord. See Section 5 above.
Provide offenders with advice on rent arrears and rent repayment plans.	The Moray Council Housing Options and Support Teams to provide advice.
Contact revenues department to initiate action to preserve tenancy.	The Moray Council Housing Options and Support Teams to provide advice.
Tenancy to be terminated - organise removal and storage of property and possessions where possible.	The Moray Council Housing Service staff to organise.

7. Offenders who have a council tenancy

7.1 If the offender is a council tenant there can be a significant risk of them losing their tenancy unless action is taken to sustain the tenancy. There can be issues such as security of the property, abandonment actions, frozen pipes, pets, arrears, benefits and so on.

7.2 The Council will write to the offender at the prison to remind them of their responsibilities under their Scottish Secure Tenancy Agreement ask the offender's intentions regarding their tenancy. The letter details four possible options to the offender:

- assigning the tenancy to a member of the household who is over 16 and has been living there as their main home for a minimum of 6 months. The Offender would have no rights to the tenancy upon release.
- make an application to the Council to sub-let the property. The offender would retain the tenancy but would remain responsible for any rent or damage.
- terminate the tenancy giving 28 days notice in writing using the termination of tenancy form (available from our Housing Team- see contact details below)
- retain their existing tenancy and remain responsible for all the terms and conditions under the Secure Scottish Tenancy Agreement including paying rent.

7.3 The decision made by the offender will be subject to approval by the Council, who will take all circumstances into account, including the length of sentence of the offender.

7.3 Where the decision has been made to sustain the tenancy, in agreement with the Council, the Council will make every effort to carry out the necessary action possible to sustain that tenancy. This will assist in preventing any future difficulties for the offender returning to

the property on their release or being assessed as intentionally homeless.

Housing benefit - prior to October 2013

- 7.5 If a council tenant is being held in custody pending trial or sentencing, or has to stay somewhere that is not their home as a condition of bail, they will be entitled to housing benefit for up to 52 weeks as long as they not likely to be away from home for longer than 52 weeks and they going to return home after their prison sentence.

If a council tenant is convicted and sentenced housing benefit will be paid for up to 13 weeks as long as they are not likely to be away from home for longer than 13 weeks and they will be returning home after their prison sentence.

If a council tenant is convicted and sentenced long term and will be absent from their home for more than 13 weeks then housing benefit will cease on the day the tenant was sentenced.

If the offender is sentenced, any other benefits they receive will also be affected.

Universal credit - post October 2013

- 7.6 Following the introduction of Universal Credit in October 2013, if a council tenant is imprisoned, the housing element of the universal credit will be protected for six months.

- 7.7 In certain circumstances it may be possible for a relative or someone else who normally resides with them, in the house, to continue to live there and apply for housing benefit/Universal Credit in their own right to pay the rent. This does not mean that the tenancy transfers to the partner/relative.

- 7.8 Where necessary, a referral will be made by SPS Prison staff to the Housing Needs Service where there is a need for the prisoner to discuss his/her housing options as discussed above in para 7.2.

7.9 A member of the Moray Council Housing Needs Service will make arrangements to interview the offender either:

- by telephone/audio call
- via video conferencing link
- by visit to the prison's Link Centre if appropriate.

The method of interview will depend on the housing need and what action needs taken.

8. During period of custody

8.1 The length of time spent in custody will vary considerably from weeks to months to years. Therefore, circumstances will vary.

8.2 In general, during the offenders period in custody, the following should be considered.

Action	By Who
Complete review of housing assessment to identify and changes to housing status and action taken to secure, maintain or terminate existing tenancy.	Prison staff to make referral to the Moray Council Housing Support Co-ordinator (if council tenant) or other relevant landlord. See Section 5 above.
Identify housing issues , for example, rent arrears.	
Ensure offender has access to all necessary documentation to apply for housing and claim housing benefit.	Moray Council will ensure supply of appropriate documentation.
Make Housing applications to the Moray Council and/or registered social landlords in Moray through the Common Housing Register.†	Prison staff to make referral to the Moray Council Housing Support Co-ordinator (see Section 5 above) who will advise them to complete a housing application at www.apply4homes.org.uk

Identify any housing support needs.	Prison staff to make referral to the Moray Council Housing Support Co-ordinator (if council tenant) or other relevant landlord. See Section 5 above.
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† Please note that the CHR application process is an online facility and access to pc's in prisons can be very limited for offenders. Where there is no access to pc's, basic personal details should be taken. Housing staff can input this information to start application online for offenders. This will then allow a paper application proforma with the offenders personal details to be printed off. The remainder of the paper application can be completed by the offender personally.

9. Prior to release

- 9.1 In all cases, where the time of remand permits, all offenders with a housing need should be referred to the Moray Council Housing Needs Service a minimum of 2 months prior to their release date.
- 9.2 Short term offenders – will be assessed from their initial referral and supported as above.
- 9.3 Long term offenders – an early indication notice should be sent to the Moray Council 6 months prior to their release to allow appropriate time to appraise the offenders housing options and find a suitable solution to their housing situation. Details should include their expected date of release. At an absolute minimum the referral should be made 2 months prior to release date.
- 9.4 Prior to the release of an offender with additional or more complex needs, the Moray Council Housing Needs Service will work with the required departments and agencies who can contribute to the re-integration of an offender into the community for example, Social Work, Housing, Criminal Justice, Drug and Alcohol services. A co-ordinated

approach will be developed to ensure that all the offenders needs are met.

9.5 The following should be discussed and where appropriate further referrals made.

Action	By Who
Offender's tenancy has been sustained but needs to contact landlord to make arrangements to return such as collecting keys, turning on water and so on.	Prison staff to make referral to the Moray Council Housing Support Co-ordinator (if council tenant) who will arrange for these actions to be carried out.
Offender has no accommodation identified on his/her release.	Prison staff to make referral to the Moray Council Housing Support Co-ordinator (if council tenant) for housing options advice/homeless assessment. See Section 5 above.
Advice on housing options needed and homeless application to be made and assessed.	The Moray Council Housing Options Team and Housing Needs Officers will provide advice and complete assessment.
Review any support needs	The Moray Council Housing Needs staff will refer to the Housing Support Team.
Need for Multi-Agency Approach required – where issues highlighted previously, to be arranged 6 weeks prior to release.	Prison to arrange meeting with all relevant partner agencies.

10. Homelessness

- 10.1 The Council's duties have changed significantly through the Housing (Scotland) Act 2001 and the Homelessness etc (Scotland) Act 2003. The legislation requires local authorities to provide advice and information about homelessness and services that may assist a homeless person or in the prevention of homelessness. Households that are assessed as such and are unintentionally homeless will be eligible for permanent accommodation.
- 10.2 The Council's overall aim is to prevent and alleviate homelessness in a sensitive but effective manner. The Council has a housing options service as well as a housing transition and a tenancy support service. As a result more of our work is focusing on preventing homelessness while exploring and increasing the housing options for those at risk of homelessness.
- 10.3 Where homelessness does occur we will make sure that all appropriate support and assistance is provided to the applicant.

11. Homeless or potentially homeless offenders

- 11.1 The Council is responsible for assessing whether a person is homeless. The criteria that is currently used to assess this is in accordance with the [Housing \(Scotland\) Act 2001](#) and the [Homelessness Etc \(Scotland\) Act 2003](#) and are as follows:
- Is the applicant homeless or threatened with homelessness;
 - Is the applicant homeless intentionally; and
 - Does the applicant have local connection?
- 11.2 The Council has a duty to make reasonable enquiries into homeless applications made under the [Housing \(Scotland\) Act 1987](#) (as amended).

11.3 A person is homeless or potentially homeless as defined by the [Housing \(Scotland\) Act 1987](#) (as amended by the [Housing \(Scotland\) Act 2001](#)) if:

- they have no accommodation in the UK or elsewhere which they, and those who might reasonably be expected to live with him, is entitled to occupy
- they have accommodation but:
 - they cannot secure entry to it;
 - occupation will lead to violence or threats of violence;
 - it is a mobile home, caravan, houseboat or other moveable structure but there is no place where he is entitled or permitted to put it or moor it and to live in it;
 - it is statutorily overcrowded and may be injurious to the health of the occupants; or
 - it is not reasonable to continue to occupy it.

A person is threatened with homelessness if it is likely they will become homeless within two months.

12. Intentionally homeless

12.1 The Council will assess whether any applicant who is homeless or threatened with homelessness has been found to be intentionally homeless. This decision is based on The [Housing \(Scotland\) Act 1987](#) (as amended) and the [Code of Guidance on Homelessness 2005](#).

Intentionality will only be decided where there is clear evidence that:

- A person has become homeless, or threatened with homelessness, because they have deliberately done something, or failed to do something while being aware of all of the relevant facts, that resulted in the loss of their secure accommodation;
- They were aware of the consequences of his/her actions; and
- It would have been reasonable for the person to have continued to occupy their previous or current accommodation.

13. Local connection

13.1 In accordance with the [Housing \(Scotland\) Act 1987](#) (as amended) and the [Code of Guidance on Homelessness 2005](#), a person is accepted as having a local connection if any of the following applies:

- they have been resident in Moray for at least 6 months in the previous 12 months or for at least three years during the previous five years; or
- they or a member of their household is employed in Moray, or
- because a member of the household has a close family member currently resident in Moray for at least five years, or
- because of any special circumstances, for example, where there is no local connection to anywhere in the UK.

14. Outcome of homeless assessment

14.1 The Housing Needs Service will aim to complete an assessment and advise applicants, in writing, of the decision of their homeless application, within 28 days from the date of the application.

14.2 If the applicant is assessed as homeless the Council may need to provide temporary accommodation upon their release from prison until permanent accommodation can be secured.

14.3 In accordance with the Moray Council's Allocations Policy (2008) applicants who are homeless, under the [Housing \(Scotland\) Act 1987](#) (as amended), will be placed on the Homeless Waiting List. Placing on the list is determined by the date of the homeless application, unless there are exceptional circumstances that merit an urgent offer of accommodation. A percentage quota is set annually for allocations made from the Homeless Waiting List.

15. Housing support

15.1 The Council also has a duty under [section 32b of the Housing \(Scotland\) Act 2010](#) to assess the support needs of the applicant and any other person staying with the applicant, where they have reason to

believe that the applicant or anyone in the homeless household may be in need of a housing support service. Following the assessment, the Council will make sure the appropriate support service is delivered to that person or household.

16. Monitoring and reviewing

16.1 In order to comply with its commitments as set out in the protocol, the Council will monitor the following:

- Number of new referrals received;
- Number of approaches made without a previous referral;
- Number of cases that have been closed in the period; and
- Number of cases that have been closed in the period that have had a successful outcome (homelessness has been prevented).

16.2 This protocol will be reviewed on **an annual basis**, (or sooner if legislative changes affect the protocol) by the Homelessness Strategy and Development Manager and the Homelessness Projects Officer, the Moray Council.

16.3 Any comments on the Prison Discharge Protocol should be made to:

The Homelessness Strategy and Development Manager

The Moray Council

Housing Needs Section

Council Offices

High Street

Elgin

Moray IV30 1BX

16.4 For further information on the Council's Housing Options Team, Homelessness Policy or homelessness in general please visit the Council's website at www.moray.gov.uk.

Contact details

The Moray Council	
Housing Needs Section (including Housing Options and Housing Support) The Moray Council Council Offices High Street Elgin IV30 1BX	Phone: 0300 123 4566 E-mail: housing@moray.gov.uk
Emergency Out of Hours Service	Phone: 08457 565656
Housing Benefit and Council Tax	Phone: 01343 563456 E-mail: revenues@moray.gov.uk

For further information on landlords and letting agents within the Moray area please see our ['Guide to Housing Options'](#) which is available at our access points or online at www.moray.gov.uk

Prison Contacts

SPS Prison	Contact	Telephone	E-mail
Barlinnie	Karen McDonald Prison Casework Team Leader	0141 770 2128	karen.mcdonald@glasgow.gov.uk
Cornton Vale	Stewart MacFarlane, Housing Support Officer	01786 835 392	stewart.macFarlane@sps.pnn.gov.uk
HMP/YOI Grampian	George Peden, Offender Outcomes Manager	01779 485 034	george.peden@sps.pnn.gov.uk
Low Moss	Pat Giffin, Head of Offender Outcomes	0141 762 9505	patrick.griffin@sps.pnn.gov.uk
Perth	Brian Sharp Calum Kincaid		brian.sharp@sps.pnn.gov.uk calum.kincaid@sps.pnn.gov.uk
Polmont	Neil Fraser, Link Centre Manager	01324 722610	neil.fraser@sps.pnn.gov.uk
Porterfield	Gary Goddard	01463 229083	gary.goddard@sps.pnn.gov.uk

