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# ALLOCATIONS POLICY

TT/September.2021/REF:P1



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## 1. INTRODUCTION

- 1.1 Milnbank Housing Association (MHA) is a Community Controlled Housing Association operating in the East End of Glasgow. It is a non-profit making organisation, established in 1975 with the primary remit of improving the housing provision within its area of operation.

A key function of MHA is to allocate available housing within its stock in a manner that is fair and equitable and in line with good practice guidelines. To facilitate this, an Allocations Policy has been implemented. This is needs based in order to reflect its statutory duty to identify and give priority to the three groups specified in the Housing (Scotland) Act 2014.

**MHA's Mission is to meet housing and related needs within our community and provide our tenants and other customers with an excellent service.**

## 2. LEGAL & REGULATORY REQUIREMENTS

In terms of the Allocations Policy, there are a number of legal and regulatory requirements which MHA has incorporated and adheres to when allocating accommodation. These include:

- (a) **HOUSING (SCOTLAND) ACT 2010 & 2014** - To meet the requirements of this Act, MHA shall have clear rules governing admission to the housing list and the Association's priority for allocating available accommodation (2010), amended by the 2014 Act in terms of the three priority groups.
- (b) **CONTROL OF PAYMENTS BENEFITS FOR STAFF AND COMMITTEE MEMBERS POLICY** – In terms of the above, MHA may grant a tenancy to Employees, Committee Members, former Employees, former Committee Members and close relatives of the aforementioned. In the event of such a tenancy being granted, the decisions made with regard to this tenancy will always comply with relevant guidelines.
- (c) **EQUALITY AND DIVERSITY**– MHA will abide by the Equality Act 2010. MHA will not discriminate against any applicant who applies to be rehoused on the grounds of race, religion, gender, age, disability, sexual orientation, pregnancy & maternity, gender reassignment or marital status.

To help fulfil its commitment to Equality & Diversity MHA collates and monitors data of the ethnic/racial origin, economic status and household details of all those who apply for housing. The Allocation Policy is provided, free of charge, to anyone who applies to be rehoused or who requests a copy. The Policy and application form is also available in Braille, large print, audiotape and a translation to other languages on request.

- (d) OTHER LEGISLATION** – In addition to the above, MHA also adheres to:
- Race Relations (Amended) Act 2000
  - Matrimonial Homes (Family Protection) (Scotland) Act 1981
  - Sex Discrimination (Amended) Act 2003
  - Data Protection Act 1998 and 2018

### **Regulatory Requirements**

The Scottish Social Housing Charter was introduced by the Scottish Housing Regulator in 2012. It sets the standards and outcomes for all social landlords when performing their housing activities. The outcomes that are relevant to the allocations policy are:

- Outcome One – Equality
- Outcome Two – Communication
- Outcome Three – Participation
- Outcome Seven, Eight and Nine - Housing Options
- Outcome Ten – Access to Social Housing
- Outcome Eleven – Tenancy Sustainment
- Outcome Twelve – Homeless People

### **(e) GUIDANCE**

MHA have signed the Make a Stand Pledge to support people experiencing Domestic Abuse.

We recognise that domestic abuse can be experienced by women, men, or in same sex relationships and that it can involve any family relationship including children. MHA recognises that a person has a right to a life free from violence and abuse. MHA will use its best efforts to assist in the rehousing of people experiencing domestic abuse. We will do this whether the abuse is physical, sexual or emotional; and whether the victim is male or female. However as a relatively small landlord, we may not always be able to provide immediate help in such cases.

MHA has committed to provide assistance to applicants applying via the Glasgow City Council Care leaver's protocol.

## **3. THE BASIS OF SELECTION**

All allocations are made in accordance with the Allocations Policy which is determined by the MHA's Management Committee. It operates the following one or more of these routes:

- 1) External Housing List (Open to all applicants who are not MHA tenants)
- 2) Transfer List (Open to existing MHA tenants)
- 3) Section 5 referrals (List of statutory homeless applicants)
- 4) Mutual exchange

All information provided by an applicant, or sought by MHA to assess the housing need, will be treated in the strictest of confidence. The information will only be disclosed to MHA staff in line with the Allocation Procedures.

There is continuous opportunity for applicants who consider themselves to be in housing need to apply for housing. Applicants must be 16 years old or over. There may be certain circumstances where it would be helpful to accept an application from someone six months prior to their 16<sup>th</sup> birthday (e.g. to help the transition of a young person leaving care, however they would not be allocated a property until they have turned 16. Completed applications will be entered onto the appropriate list, e.g. 2, 3, 4, 5 apartment etc.

Eligibility for different property types

- General needs housing – this is accommodation that is suitable for anyone regardless of age, mobility or other impairment
- Amenity housing – the allocation of these properties is age and needs defined through direct applications or local authority section 5 referrals.

A visit to your home will be arranged prior to you being made an offer.

**Removal from the Housing List** - MHA will only remove an applicant from the housing list for the following reasons:

- 1) Applicant requests that their application be removed from the list
- 2) Death of an applicant
- 3) Applicant fails to respond to the annual review of the housing list or a time specific letter

**Suspension from the Housing List** - Applicants may be suspended from the housing list for the following reasons:

Where applicant has rent arrears, or any other debts attributed to a current or previous tenancy

The applicant has tenancy related convictions and the Association is not satisfied that such behaviour has ceased and is unlikely to re-occur

On grounds of conduct: where the applicant has had an order for recovery of possession on certain grounds made against them; and/or a previous tenancy has been terminated on the grounds of abandonment or neglect of the property

Applicant has provided false or misleading information

Applicant has intentionally worsened their own circumstances to promote their application for housing

Where a direct applicant has refused two reasonable offers of housing. A reasonable offer is defined as an offer for a property which is based on application information and preferences, will meet the applicant's housing need

Applicants have voluntarily suspended themselves

Where an applicant is not eligible for assistance (i.e asylum seeker)

An applicant has been violent or aggressive to staff

The length of the suspension will be considered by the Association when looking at the applicant's history

Suspensions will be subject to regular review. Applicants may appeal in writing against a decision to suspend/refuse access to the Housing Manager within 10 working days. If the applicant is not satisfied, they can then follow the Association's complaints process.

Suspensions cannot be applied to a homeless household with the local authority has a duty to rehouse (section 5 referrals) or applicants with a homeless priority.

### **Arrears and other tenancy related debts.**

Where the tenant or applicant owes more than one twelfth of the annual amount payable in relation to a current or former tenancy, their application will be suspended from the housing list unless there is an appropriate arrangement to pay debts and the arrangement has been maintained for the previous three months. The Housing Manager has the discretion to approve an offer of housing to an applicant who does not meet these conditions where there are special circumstances.

If the applicant was not the tenant, and instead was a member of the household, the Association will not take into account the tenancy related debt when assessing their application.

Where tenancy debt are over five year's old, applicant will not be suspended. Any tenant who is allowed to start a tenancy with arrears owing to us, must sign and undertaking to pay off the arrears within a reasonable time period which will be determined by the Association.

### **Anti-Social Behaviour (ASB)**

Applicants will only be suspended for ASB which is serious and tenancy related (i.e. breach of tenancy agreement). The criteria for this would be referred to section 16(3) of the Housing (Scotland) 2001 Act.

Where applicants have caused serious ASB issue within three years, or terminated or abandoned a Milnbank Housing Association or other landlords' tenancy where they were responsible for wilful damage a Short Scottish Secure Tenancy will be considered.

### **SECTION 5 REFERRALS AND OTHER PROTOCOL REFERRALS**

The Association will seek to enter into formal partnership arrangements with the relevant local authority.

The partnership arrangements will set out nomination agreements between the two bodies and the basis on which Association will assist the local authority in meeting housing needs and its statutory homelessness duties.

The Association will provide both temporary and permanent accommodation for homeless people upon the request of the local authority as part of its duty to secure permanent accommodation under the homelessness legislation.

Where this is not possible, there must be a good reason as per the Housing (Scotland) Act 2001 'Homelessness Section 5: Guidance on Good Reason', for example:

The Association is unable to make suitable housing available within six weeks of the request and the local authority is satisfied that it can source appropriate accommodation from another provider in a reasonable period; the only housing available is a type which is not appropriate for the applicant, for example sheltered housing, specialist accommodations, or significantly adapted properties for occupation by people with a disability. Where the local authority withdraws the referral (this could be related to the first bullet point as an example); or where the applicant has voluntarily suspended their application.

There are no other grounds on which a section 5 referral can be refused.

Note: It is not appropriate to place a victim of domestic abuse near the area where the perpetrator lives unless the victim has specifically requested this due to access to local schools, friends or family nearby.

Any dispute arising from the operation of these arrangements will be resolved either through the dispute process agreed with the local authority or through the use of an Arbiter.

If an applicant behaves in a threatening or abusive manner towards a member of staff, the Association will consider a suspension based on the seriousness of the behaviour. Careful judgement must be used as the behaviour may be a symptom of mental ill-health or a momentary expression of frustration.

#### **4. THE ASSOCIATION'S HOUSING STOCK**

MHA's stock is within its one area of operation. Regardless of the location, all available stock will be allocated to the acceptable MHA standard. Area preference will only be considered where there is a specific reason (e.g. domestic violence). The range of housing stock is as follows:

- 1) Mainstream – The largest majority of MHA's stock is general mainstream flats, with a small supply of houses. This accommodation ranges in size from one bedroom to a small supply of 4 bedrooms. Vacant accommodation within this category is allocated from the main housing lists.
- 2) Wheelchair Housing - MHA has a few adapted properties. Selection will be restricted to applicants who can clearly demonstrate the need for such accommodation and must have medical verification.
- 3) Adapted Accommodation - MHA has a small provision of accommodation with specialised features (medically adapted flats) and will be allocated to applicants in terms of their housing need.

MHA's housing stock may also, if required, be allocated for the following:

Decant Accommodation - On occasions it is necessary for MHA to use properties from the Housing Stock for decanting purposes (e.g. in an emergency like a fire, flood etc.)

Mutual Exchange - Existing tenants of MHA may arrange mutual exchanges with tenants of any housing association or local authority. The in-coming tenant will be subject to the same scrutiny as other applicants, and must be of a suitable family size for the property. The incoming tenant must accept the condition of the flat as viewed. MHA may refuse a Mutual Exchange in situations where:

- There is an ongoing investigation or history of antisocial behaviour
- Receipt of an unsatisfactory tenancy reference
- The exchange will result in overcrowding, or under occupation, of the property

Lease Agreements - MHA is committed to working with other agencies to support tenants who are allocated a tenancy with MHA. (E.g. Health and Social Care Partnership)

Supported Accommodation - MHA owns and manages a small stock of specialised accommodation that offers support to vulnerable females. The allocation of this accommodation is via referrals from GCC Homeless Team and the Health and Social Care Partnership).

## **5. OFFERS OF ASSOCIATION ACCOMMODATION**

All completed applications will be entered onto the respective housing list and all offers will be based on housing circumstances and the availability of vacant stock.

MHA Existing Tenants - As MHA is committed to building and maintaining a balanced and stable community it seeks to avoid an excessive number of vulnerable households or a concentration of age range and/or lifestyles in one area. At the same time, consideration must also be given to potential problems caused by possible clash of lifestyles. As such, MHA is required to consider the needs of the existing tenants in an area as well as the needs of the local community before making a specific allocation. MHA, therefore, must be able to exercise an element of flexibility and use of discretion when making individual allocations.

Where it is felt to be inappropriate, inadvisable or against the greater good of the immediate community or the applicant, MHA retains the right to bypass the applicant(s) at the top of the housing list for a particular property. The Housing Services Manager must approve the bypassing of any applicant on discretionary grounds, clearly providing a written audit of the reason(s). The applicant(s) bypassed will remain at the top of the housing list and will be considered for the next suitable accommodation that becomes available.

Assessing Housing Circumstances - Where more than one applicant has the same points, circumstances of the applicant and the suitability of the property in relation to the needs of the applicant (e.g. size, medical needs etc.), will be taken into account. No account will be taken of the length of time an applicant has been on the housing list.

Providing Support - In applications where harassment, in any form, is evident or where an applicant has a disability or is from an ethnic background, MHA will work in partnership with the relevant support/advisory body where applicable.

Rejecting an Offer - Applicants will receive a maximum of two offers of accommodation. If both offers are rejected, the application form will be cancelled. After a minimum of 1 calendar year, the applicant will be able to re-apply at the expiry of the suspension period.

Accepting a MHA Tenancy - Where an offer of tenancy has been accepted, the applicant will be expected to occupy the property within two weeks of the date of entry or otherwise deemed by MHA.

In the case of a transfer, MHA existing tenants have two weeks from the date of entry to occupy the new property and return the keys for their existing property to the office. Should a tenant require longer than the two weeks additional rent will be charged at a daily rate until the date the keys are handed in.

### Sharing bedrooms

The minimum number of bedrooms that are required by a household with children will be based on the following:

- 1 bedroom for each two children of the same sex under the age of 16
- 1 bedroom for each two children under 10 years
- Once a child reaches the age of 16, they will be classed as an adult and will be allocated a separate bedroom
- Where a member of the applicant's household is pregnant, the unborn child will be counted in the household calculation size when proof is provided

### Over-crowding priority

Any household currently living in conditions where they do not meet the minimum standards set out above will be overcrowding points.

### Additional bedrooms

The following households will be offered properties with one extra bedroom (in addition to the minimum requirement in the sections above).

- Households with a medical need for an extra bedroom. This must be for a documented and evidenced medical need. For example, a couple where an applicant requires a medical bed which can only accommodate one. Evidence would have to be from a third party such as a support plan, social work, occupational therapy etc
- Applicants who have access to their child(ren) 50% of the week shall be added to the most appropriate waiting list. This must be evidenced for example by solicitor's letter, receipt of child benefit
- Households with a need for an extra bedroom for a permanent carer that is part of a support plan and requires a bedroom for support purposes. This would require evidence such as a support plan from social work
- Households who require an extra bedroom due to fostering (if a fostering application is pending, the Association will consider granting an extra bedroom before a child becomes a member of household. This may depend on how far advanced the application is and the views of any relevant organisation such as the local authority handling the application. Any decision

to award an extra bedroom should be approved by Housing Manager). This would also apply for those households who have kinship care arrangements as defined by the Looked After Children (Scotland) Regulations 2009.

## **6. APPEALS**

MHA recognises that a situation may occur where an applicant is unhappy with a decision reached over their application, and in such an event may wish to appeal this decision. Where an applicant wishes to appeal, the following mechanism should be observed:

- 1) If a Housing Assistant or Officer does not adequately clarify the decision, you can discuss the situation with the Housing Services Manager.
- 2) If a Housing Assistant or Officer does not adequately clarify the decision, applicants should submit their appeal in writing to the Housing Services Manager. Where this is not possible, an applicant can make contact at MHA's office whether in person or by telephone.
- 3) If the matter is not resolved by this stage, the Applicant may appeal in writing to the Chairperson of the Management Committee within 14 days of the first appeal decision. At all stages, a written statement can be requested from MHA setting out the reasons for the decisions taken.
- 4) If you are not happy with the outcome from this meeting you will normally be able to contact the Scottish Public Services Ombudsman.

Any appeals received will be dealt with in accordance with MHAs Complaints Procedure Policy, a copy of which will be given free of charge on request.

## **7. MONITORING AND REVIEW**

The Housing Services Manager will manage the implementation of this policy ensuring that MHA internal procedures are followed. The Allocations Policy is monitored on a bi-monthly basis by the Services Committee in order to assess whether the stated objectives are being achieved.

The Allocations Policy is reviewed annually by the Services Committee unless there are significant changes to legislation or is otherwise deemed necessary.

## 8. THE POINTS SYSTEM

The assessment of housing applications is on a points basis and will be based upon the following criteria:

	CATEGORY	POINTS AWARD
<b>1.</b>	<b><u>MILNBANK HOUSING ASSOCIATION TENANTS</u></b>	
1a.	<p><u>Milnbank HA Tenant's - Relationship Breakdown</u>            A MHA couple who can demonstrate that their relationship has broken down and can no longer reside together will be awarded points under this category.</p> <p>Any offer made under this category will normally be out-with their present area.</p>	40 POINTS
<b>2.</b>	<p><b><u>HOMELESSNESS</u></b>            Where a referral is made by Glasgow City Council under Section 5 of the Housing (Scotland) Act 2001 will be added to the relevant Section 5 Referral List in date order of receipt of the referral.</p> <p>Other applicants assessed as homeless will be awarded points as follows:            - Statutory Homeless, Roofless, No Fixed Abode or Homeless Unit.</p> <p><b><u>LACK OF SECURITY/SHARING ACCOMMODATION</u></b>            Applicant living with friends or relatives, under the threat of eviction, residing in tied accommodation e.g. leaving Armed Forces, Janitor, obliged to sell but without enough financial resources to buy other suitable accommodation or tenant without a lease</p> <p>Tenants living in private rented accommodation who have difficulties in making rent payments due to excessive rent charges. (Points will be dependent on income/expenditure)</p> <p>(NOTE: Applicants can only be considered for Homelessness <u>OR</u> lack of security).</p>	<p>40 POINTS</p> <p>20 POINTS</p> <p>25 POINTS</p>

3.	<p><b><u>OVERCROWDING</u></b></p> <p>All applicants will receive points where overcrowding or under occupation occurs. The criteria is as follows:</p> <ul style="list-style-type: none"> <li>- 1 bedroom for applicant and spouse, partner or co-habitee</li> <li>- 1 bedroom for each 2 children of the same gender under 16 years</li> <li>- 1 bedroom for each 2 children under 10 years</li> <li>- 1 bedroom for each other person</li> </ul> <p>All applicants will be awarded 10 points for each extra or additional bedspace.</p> <p>*Where an addition to the family is expected, medical confirmation will be requested.</p>	10 POINTS
4.	<p><b><u>FIRST ACCOMMODATION</u></b></p> <p>In order to assist those applicants who are not overcrowded/under occupied and who are applying for their first property the following applies:</p> <ul style="list-style-type: none"> <li>- All applicants requiring 2 apartment applying for their first accommodation but do not qualify for overcrowding or under occupancy</li> <li>- All applicants require 3 apartment+ property and applying for first accommodation, but do not qualify for overcrowding or under occupancy</li> </ul> <p>Applicants who are leaving local authority care and are referred and accepted via the Leaving Care Protocol.</p> <p>(NOTE: Applicants who are accepted via the Leaving Care Protocol will not receive first accommodation points).</p>	<p>30 POINTS</p> <p>20 POINTS</p> <p>70 POINTS</p>
5.	<p><b><u>LACK OF SECURITY/SHARING ACCOMMODATION</u></b></p> <p>Applicant living with friends or relatives, under the threat of eviction, residing in tied accommodation e.g. leaving Armed Forces, Janitor, obliged to sell but without enough financial resources to buy other suitable accommodation or tenant without a lease</p> <p>Tenants living in private rented accommodation who have difficulties in making rent payments due to excessive rent charges. (Points will be dependent on income/expenditure)</p> <p>(NOTE: Applicants can only be considered for Homelessness <u>OR</u> lack of security).</p>	<p>20 POINTS</p> <p>25 POINTS</p>
6.	<p><b><u>LACK OF AMENITIES</u></b></p> <p>No cooking facilities</p> <p>Where cooking facilities are located in the same room as the applicant sleeps</p> <p>No permanent heating system</p>	<p>20 POINTS</p> <p>10 POINTS</p> <p>20 POINTS</p>



9b.	<p><u>Moderate Priority</u> Points will be awarded where it is shown that the current accommodation is:</p> <ul style="list-style-type: none"> <li>- aggravating the medical condition or health problem</li> <li>- restricting the applicant's mobility within the property</li> <li>- making it difficult for the sufferer to move freely around their home</li> </ul>	50 POINTS
9c.	<p><u>Low Priority</u> Points will be awarded to applicants that demonstrate that their current accommodation is:</p> <ul style="list-style-type: none"> <li>- aggravating the medical condition or health problem</li> <li>- causing the person mental and/or emotional problems (e.g. depression) to such a degree that continued and long term assistance is required from psychiatric services.</li> </ul> <p>Points will only be considered if accompanied by a Psychiatric report. Also applicants suffering from depression, with supporting letter from Psychiatrist)</p>	40 POINTS
9d.	<p><u>Additional Medical Points</u> If more than one applicant in each household will benefit additional points per person will be awarded.</p>	10 POINTS
<b>10</b>	<p><b><u>SOCIAL CONDITIONS</u></b></p>	
10a.	<p><u>Support</u> Points will be awarded to those applicants who need support of, or who have to support, a relative living within MHA's area of activity</p>	20 POINTS
10b.	<p><u>Employment</u> Points will be awarded to those applicants who wish to reside in the area for employment reasons. (Proof of employment will have to be provided before these points are awarded).</p>	20 POINTS
	<p>Where a joint application is submitted and both applicants are in employment the 2<sup>nd</sup> applicant will be awarded 10 points.</p>	10 POINTS
10c.	<p><u>Other Social Conditions</u> MHA recognises that there are some other situations where there are special needs or exceptional social circumstances not adequately covered under other sections of this Policy</p> <p>Points under this category may be awarded by the relevant housing staff. For audit purposes the Housing Services Manager will confirm these points. It may be necessary to request evidence to support this category e.g. Police, Social Work Services, Landlord etc.</p> <p>If you share custody of your children you must have overnight access to your children a minimum of two nights per week, and you must be able to evidence this.</p>	30 POINTS

<p><b>11.</b></p>	<p><b><u>HARASSMENT/DOMESTIC ABUSE/ANTI-SOCIAL BEHAVIOUR</u></b></p> <p>Harassment should not be confused with neighbourhood issues general nuisance, vandalism or other forms of anti-social disputes. Harassment goes beyond neighbour disputes and is on-going violence which may be physical or verbal, and which is aimed at a specific person or household purely on the basis of a personal factor such as nationality, race, religion or sexuality.</p> <p>Points will be awarded for harassment when the applicant can demonstrate that their quality of life is seriously affected because of harassment of themselves or a member of their household. Evidence may be requested such as letters of support from current landlord, police reports etc</p> <p>Points will be awarded for issues within the neighbourhood and this will reflect the severity of the problem in the neighbourhood at large and the direct effect it is having on the applicant and/or applicant's family</p> <p>Points will only be awarded in this section when the applicant remains in the address shown on the application at the date of award</p> <p>Points will not normally be given if the applicant or a member of their household is judged to be the instigator and perpetrator of the dispute and is being unreasonable in their expectations or is unjustified in their accusations and complaints.</p>	<p>60 points</p> <p>40 points</p> <p>20 points</p> <p>10 points</p>
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### **Removal of points**

Points are awarded under certain categories only when the Association is satisfied that the problems being experienced are so severe that the only means of resolved the situation is urgent re-housing. This includes:

- Statutory homeless
- Intentionally homeless
- Hostel or homeless unit
- Imminent danger
- Harassment
- Domestic abuse
- Very high medical and health needs
- Special circumstances

These points are awarded to allow applicants to be re-housed as soon as possible and housing aspirations are of secondary importance. Refusals of suitable re-housing, will therefore, result in a review of the applicant's eligibility for the priority points and unless the refusal is directly linked to the reason for awarding the points may result in these points being removed. The applicant will not be considered for priority points for a period of 12 months.

Priority points may also be removed if the cause of the problem that led to the points being awarded has been resolved by other means and/or no incidents have occurred in the previous 12 months

## **RESPONDING TO APPLICATIONS**

In line with the Housing (Scotland) Act 2001 all applications are assessed and pointed in accordance with the Association's Allocations Policy.

Applicants will receive written notification once their application has been accepted onto the housing list. The Association will aim to turn around an application form (from receipt to issuing registration letter) within 10 calendar days.

Information will be provided to applicants in writing of how many points they have been awarded, the size of property they are being considered for and the current position on the list.

## **MAKING, RECEIVING, ACCEPTING AND REFUSING AN OFFER OF HOUSING**

All applicants who apply for housing will be shortlisted based on the priority criteria given to reasonable preference groups set out in this policy. Applicants at the top of the list will then be considered for a property if they are eligible, they meet the household size for the property and are not subject to a suspension.

### Reasonable offers

A reasonable offer is defined as an offer for a property which is based on application information and preferences, will meet the applicant's housing needs. When determining whether an offer is reasonable, the Association will also take into accounts;

- Stock availability and demand
- Legislative requirements
- Based on the reason for the refusal and the information provided about the property, was it reason that the applicant should have recognised that the property was unsuitable before accepting an offer
- If there been any change in the applicant's circumstances.

Applicants will be given up to two working days from the date of the offer letter to respond either by refusing the offer or by making an arrangement to view the property. Failure to do so will result in the offer being withdrawn in writing by the Association and recorded as a refusal.

An applicant must normally accept an offer and sign the tenancy agreement within one working day of viewing the property, although this may be extended by a further working day in special circumstances. Failure to do so will result in the offer being withdrawn and recorded as a refusal.

The Association does appreciate that applicants may want to view and sign for a property on the same day and in exceptional circumstances staff will facilitate this request when required.

### **CONFIRMATION OF CIRCUMSTANCES**

The onus of proof of circumstances lies with the applicants in most circumstances.

Applicants unable to provide adequate evidence as their housing needs or circumstances will have their application cancelled.

Responsibility for notifying changes of address and other change of circumstances lies with the applicant. Failure to notify changes may materially affect the points awarded.

### **REVIEW OF APPLICATIONS**

A review of direct applications will be carried out on at least an annual basis.

Applicants will be required to respond to a letter within 28 calendar days of receipt stating whether they still wish to be considered for housing, and listing any changes in circumstances. Failure to do so will result in the applicant being removed from the list. Removal from the list will be confirmed in writing to the applicant. If an applicant contacts the Association within one month of being removed from the list, giving good reason for not responding they will be reinstated.

Removed applicants contacting us after the 28 calendar day deadline with no good reasons for not responding, must reapply by completing a new application form. This will be regarded as the new date of application, unless the Housing Manager considers there to be mitigating circumstances.

### **Tenancy references**

With the applicant's consent, the Association will seek references from an applicant's current and former landlord for tenancies that have ended within three years or less from the date the applicant is considered for a property.

### **CANCELLATION OF APPLICATIONS**

There are a very limited number of circumstances where an application may be removed from the housing list. These are:

The applicant asks us to cancel their application;

The death of an applicant; or

The applicant repeatedly fails to respond to a review of the list or to other correspondence

Any applicant whose application is cancelled or suspended will be notified in writing stating the grounds on which the decision has been made. If any applicant is aggrieved by such a decision, they have the right to appeal in writing to the Housing Manager within 15 working days of the date of notification

being issued. The Housing Manager will review the case and respond within 15 working days. If the customer is not satisfied with the outcome of the appeal, the next stage is to follow the Association's complaints handling procedure.

**GRANTING OF TENANCIES TO EMPLOYEES, GOVERNING BODY MEMBERS AND RELATIVES OF PERSONS CONNECTED TO THE ASSOCIATION**

Housing applications from employees and relatives of persons connected with the Association will be treated in line with all other applications. All applicants shall be asked to state whether or not, to their knowledge, they are related to a Committee or staff/agent member, and the Association will comply with all relevant legislation, regulatory guidance and best practice in dealing with any of these applications.

**TENANCIES GRANTED**

In all cases, excluding those categories below, a Scottish Secure Tenancy will be offered:

Where a Short Scottish Secure tenancy is appropriate in line with Schedule 6 of the Housing (Scotland) Act 2001.

Applicants who are married, in a civil partnership or intending to co-habit will be offered joint tenancies unless specifically requested otherwise.

## **Mutual exchange Appendix**

### **Policy principles**

All Scottish secure tenants have the right to exchange their tenancy, including Association tenants, tenants of other RSLs and tenants of local authorities and/or other public bodies

We will consider on merit any application for an exchange with applicants who are not Scottish secure tenants, for example, social housing tenants in England, private tenants who do not have the right to exchange. The Association will also provide advice on the implications for any tenant considering such an exchange which could result in them losing security of tenure.

Mutual exchanges are not limited to two parties and multiple exchanges will be permitted subject to qualification outlined in the policy.

Where a mutual exchange involves the tenants of another landlord, the other landlords must also consent to the exchange.

The Association will not unreasonably withhold consent to requests for mutual exchanges as long as the appropriate criteria are met. Any decision to refuse or accept an application for a mutual exchange will be made by the Senior Housing Officer or other officer of at least equal seniority.

The Association will take part in and promote local and national mutual exchange schemes where this is considered to be beneficial to tenants

### **Applications and consent**

Requests for mutual exchange must be submitted in writing by the tenant and replied to in writing within one month. In accordance with the Housing (Scotland) Act 2001 Schedule 5 Part 2, if consent or refusal is not advised in writing within one month then it is taken that the landlord has consented to the application

The Association may refuse consent if there are reasonable grounds to do so. The following are possible, but not exclusive, grounds under which an application may be refused, including those set out in the Housing (Scotland) Act 2001:

- An applicant has been issued with a Notice of Proceedings for Possession and the notice is still effective
- An applicant is the subject of an order of eviction
- An applicant has rent arrears
- An applicant has breached the terms of their current tenancy, for example through condition of their property
- There is an existing ASBO against an applicant or member of the applicant's household
- A financial inducement has been offered by either party or someone connected to them in some way
- Overcrowding or under occupation for our tenants would be exacerbated by or result from the exchange

- A property has been specially adapted for the benefit of someone with special needs and there will be no one in the house after the exchange who would benefit from the adaptations
- An applicant does not have the necessary support in place
- We have plans to carry out work to the house or building which would affect the accommodation
- An applicant has a tenancy that is tied to their employment
- Any other reason which the member of staff making the decision on the application considers to be reasonable

Applications for mutual exchange are likely to be refused if overcrowding or under occupation for our tenants would be exacerbated by, or result from, the exchange. Any decision on overcrowding will be made with reference to the criteria set out in the Housing (Scotland) Act 1987. Any decision on under occupation will be made primarily with reference to the Allocations Policy.

Where a tenant is currently under occupying, and wants to exchange to a house of the same size then the Association would normally allow this subject to other conditions being met

In some case the Association will approve a mutual exchange subject to the tenant completing any outstanding repairs in the property that are their responsibility in accordance with their tenancy agreement

In deciding whether to consent to a request to exchange from a tenant with a SSST the Association will take account of whether the special circumstances that led to the tenant being granted the SSST still apply. If the Association want the incoming tenant to have a SSST then it must be satisfied that it still has grounds to do this

### **Conditions for the exchange**

The incoming tenant must accept the condition and decoration of the property as it is. No repairs other than those required under the terms of normal landlord responsibility will be carried out by the Association following a mutual exchange

An electrical and gas safety check (where appropriate) will be required on the day of the exchange. An EPC is not required for a mutual exchange if there is already one in place. The Association will pay the costs of the necessary certificates required to be given to the new tenant. Tenants must sign a mandate to confirm that they will accept a recharges for the costs of the exchange if they terminate their tenancy within one year of the exchange date

All new tenants must sign a new tenancy agreement. This includes tenants moving from one of the Association's properties to another. The Associations outgoing tenant must sign a termination form.

No exchange of keys should take place before any tenancy agreement has been signed

## **Appeals**

The Association will offer tenants or applicants the opportunity to appeal against any decision not to approve a mutual exchange. Any such appeal will be heard by Housing Manager or other appropriate senior members of staff who have not previously been involved in making a decision on the case. If the tenant is still dissatisfied after the outcome of the appeal, then they may make a complaint which will be dealt with under the complaints handling procedure

The applicant is also entitled to appeal to court by summary application on decisions relating to mutual exchange. If the court considers the Association's refusal to be unreasonable it can direct it to consent to the application

## **Unapproved mutual exchange**

Where an exchange has taken place without consent, the Association will take one of the following options:

- Regulate the position by completing procedures retrospectively
- Insist that the tenants return to their original houses; and/or
- Take action against the tenant(s) for breach of tenancy conditions because they are no longer using the tenancy as their main and principle home

If the mutual exchange involves a tenant of another landlord, the Association will liaise with the other landlord to agree the best course of action

## **Rent arrears and underoccupancy**

For tenants affected by the under-occupancy charge, mutual exchanges is one of the best options available to find a property which enables them to receive full housing benefit

Where arrears have built up directly and solely due to the under-occupancy charge, we will normally allow an exchange to take place as long as all other conditions have been met

Where arrears have built due to the under-occupancy charge, but there are additional arrears the Association will normally consider allowing an exchange only if an acceptable arrangement has been made and kept to for at least three months. Any decision to approve an exchange under these circumstances will depend on factors including level of arrears, payment history and financial circumstances of the tenant

Where a tenant has arrears but is not affected by the under occupancy charge the Association will not normally approve an exchange unless the full amount of the arrears is cleared

Any tenant who is allowed to exchange with arrears owing to the Association must sign an undertaking to pay off arrear within a reasonable time period, which will be determined by the Association

## **Legislation references and sources**

The following legislation, references and sources are relevant to the development and delivery of this policy and associated procedure:

- Housing (Scotland) Act 2001, section 33 and schedule 5 part 2, set out the legal framework for mutual exchange including the right to exchange, statutory refusal reasons and the requirements of the application process
- The Scottish Government Scottish Secure and Short Scottish Secure Tenancy Guidance further explains the legal framework set out in the Housing (Scotland) Act 2001