

KERRY COUNTY COUNCIL

SOCIAL HOUSING ALLOCATION SCHEME

***In Accordance with Section 22 of the Housing (Miscellaneous Provisions) Act, 2009
and
Social Housing Allocation Regulations 2011 (SI No 198 of 2011)***

1 Purpose of the Scheme

- 1.1 This Social Housing Allocation Scheme, made in pursuance of Section 22 of the Housing (Miscellaneous Provisions) Act, 2009 and the Social Housing Allocation Regulations 2011 (SI No 198 of 2011), shall be used by the Kerry Local Authorities (herein after referred to as the Council) as a means of determining the order of priority to be afforded, in the letting of dwellings to:-
- (a) persons assessed as being qualified for social housing support in accordance with Section 20 of the Housing (Miscellaneous Provisions) Act, 2009 (and associated regulations)
 - (b) persons transferring from a dwelling, including from a dwelling provided under the Social Housing Leasing Initiative or the Rental Accommodation Scheme **and**, including transfers to new dwellings being purchased under the Incremental Purchase Scheme.
- 1.2 This Allocation Scheme applies to
- (a) Dwellings provided under the Housing Acts 1966 to 2009 or Part V of the Planning and Development Act 2000-
 - (i) of which The Council is the owner, or
 - (ii) of which the Council is not the owner and which are provided under contract or lease between the Council and the owner concerned, including rental accommodation availability agreements.
 - and
 - (iii) dwellings owned and provided by Approved Housing Bodies (AHBs) to whom assistance is given under section 6 of the Housing Act 1992 for the purposes of such provision.

2 The Manner in which Dwellings are Allocated

The manner in which the Council will allocate dwellings, or different categories of dwellings, to households referred to in Section 22(3) of the Act of 2009, or to different classes of households, shall have regard to the order of priority as set out in Section 3.

3 Order of Priority

3.1 In the making of any allocation, the following priorities shall apply in the order as set out hereunder:-

- a) Applicants living in dwellings deemed to be dangerous as defined in Section 3 of the Sanitary Services Act, 1964 **or** being displaced by operation of the Local Authority
- b) Applicants living in unfit **and** overcrowded conditions as defined in Sections 66 and 63 respectively of the Housing Act, 1966
- c) Applicants living in unfit conditions as defined in Section 66 of the Housing Act, 1966.
- d) Applicants living in overcrowded conditions as defined in Section 63 of the Housing Act, 1966.
- e) Applicants in need of housing on disability, exceptional medical, compassionate or other similar grounds
- f) Applicants who are elderly
- g) Applicants who are members of the Traveller Community
- h) Applicants not included in any other category above, who have been assessed and approved for Social Housing Support

3.2 While allocations will be made in accordance with the above order of priority, where a number of applicants fall within the same category, regard shall be had to the length of time that has elapsed since the applicant qualified for inclusion as a qualified applicant for housing by the Council.

3.3 Where priority is claimed on exceptional medical grounds, an applicant must have a serious medical illness or condition for whom the allocation of social housing support would improve that person's medical situation. The Council shall obtain and have regard to a report from a Medical Consultant in making of lettings if priority is claimed wholly or partly on exceptional medical grounds.

3.4 Consideration will also be given to the level of demand from the various categories on the assessment of housing need with particular priority for the category of one person households.

3.5 The Council, in applying the terms of this Scheme to any applicant, may, if it considers it appropriate to do so, disregard applicants present accommodation, if the Council has reason to believe that they have, deliberately or without good sufficient reason, remained in, or taken occupation of, unsuitable accommodation primarily to improve their prospects of obtaining a tenancy from the Council.

- 3.6 All allocations shall be subject to Section 6.2 hereunder and all shall also be subject to principles of good estate management.
- 3.7 All nominations to dwellings owned and provided by Approved Housing Bodies shall also follow **this** order of priority.

4 Exceptions

Notwithstanding anything in Section 3 above, the Council may disregard the order of priority given to a household under an allocation scheme where the household is being provided with social housing support in the following circumstances: -

- in meeting the needs of homeless persons, as defined in Section 2 of the Housing Act 1988, or other need of accommodation arising from specified exceptional circumstances, including displacement by fire, flood or any other emergency, development, redevelopment or regeneration of an area by the Council or exceptional medical or compassionate grounds
- in respect of a dwelling let to the household under a Chapter 4 tenancy agreement having been assessed under Section 20 (3) of the Housing (Miscellaneous Provisions) Act 2009, i.e. RAS accommodation.

In the allocation of RAS accommodation, the Council will have regard to the length of time a household has been in receipt of rent supplement, the length of time a household has been approved for social housing support, or a combination of both; and will be subject to Section 6.2 hereunder.

5 General Provisions

The following special conditions shall apply in respect of the Allocation Scheme for the Letting of Dwellings:

- 5.1 The Council may, from time to time, as it sees fit, designate a particular number or proportion of dwellings becoming available to **it** for allocation for all or any of the following purposes:
- (a) allocation to particular classes of household, e.g. older persons, persons with disabilities etc., thus affording priority in the allocation of those dwellings to approved households in the relevant category of need;
 - (b) allocation to households transferring from other forms of social housing support (e.g. RAS Units, Voluntary Housing Units) and leased units;
 - (c) for particular forms of tenure, including an Incremental Purchase dwelling;
 - (d) for allocation under Choice Based Lettings (CBL).
- 5.2 The procedure applied by the Council for an Incremental Purchase Scheme will be as set out in Part 3 of the 2009 Act and the Housing (Incremental Purchase) Regulations 2010 (S.I. No. 252 of 2010). Properties are designated by Manager's Order for use for Incremental Purchase Schemes.
- 5.3 The procedure applied by the Council for *Choice Based Lettings* will be as set out in Sections 6 – 11 of the Social Housing Allocation Regulations 2011. In accordance with Regulation 12 (4), a refusal of an offer made under a CBL shall not constitute a refusal as per

Section **6.1**. In accordance with Regulation 10(1), where an applicant refuses a reasonable offer of a CBL, the household cannot bid for another CBL dwelling for 1 year. Properties are designated by Manager's Order for use for Choice Based Lettings.

- 5.4 In accordance to Section 19(4) of the Housing Act 2009, the Council may, from time to time, decide to set aside a particular number or proportion of the dwellings becoming available to the Council for letting to particular classes of household. Where such a number or proportion is set aside, priority shall be afforded to the specified classes of households in the letting of these dwellings.

6 Refusals

6.1 Refusal of Offers of dwelling allocations

- (a) Where a qualified household refuses 2 reasonable offers of the allocation of different dwellings made by one or more than one housing authority in the relevant application area in any continuous period of one year, commencing on the date of the first refusal, the said household shall not, for the period of one year commencing on the date of the second refusal, be considered by any housing authority for the allocation of a dwelling to which section 22 of the Housing Act of 2009 applies and the later period will not subsequently be reckonable in any way for the purposes of determining the relative priority of that household for a dwelling allocation.
- (b) An offer of a dwelling allocation by the Council shall be deemed to be reasonable where, in the opinion of the Council, the accommodation offered, would meet the accommodation needs and requirements of the household and the dwelling is situated in the area of choice specified by the household. The only exception to this is where the Council makes an offer because of specified exceptional circumstances, including displacement because of fire, flood or other emergency, development, redevelopment and regeneration of an area or exceptional and compassionate grounds. In these circumstances, the Council does not have to offer the household accommodation in their area of choice for it to be considered a reasonable offer.
- (c) Refusal of offers of accommodation offered under RAS and/or Leasing will be treated as a refusal of accommodation.
- (d) The offers of accommodation will be counted across an application area, meaning that applicant refusals will count in all authorities where they have specified an area of choice.
- (e) The processing of Refusals and appeals of same will be carried out in accordance with the Council's policy in relation to Refusals of Offers of Tenancy.

6.2 Refusal of Council to Allocate

Notwithstanding anything contained in the Housing Acts 1966 to 2009 or in an Allocation Scheme made under section 22 of the 2009 Act, the Council may use its right under Section 14(1) (as amended) of the Housing (Miscellaneous Provisions) Act, 1997 to refuse to allocate, or defer to allocate a dwelling in the following circumstances :-

Where it considers the applicant and/or a member of the applicant's household:-

- I. Is or has been engaged in anti-social behaviour, or that a letting to that applicant household would not be in the interest of good estate management.
- II. Has been evicted from previous local authority accommodation.
- III. Has illegally occupied local authority accommodation
- IV. Has vacated a previous local authority dwelling owing that authority rent in respect of the tenancy. In such circumstances consideration may be given to including such an applicant on the basis of all arrears being cleared in full.
- V. Has previously vacated a local authority dwelling and neglected the proper upkeep of the dwelling.
- VI. Is squatting or has previously squatted in a local authority dwelling.
- VII. Has made threats/committed violent behaviour against a member or members of staff of a local authority engaged in their duties.
- VIII. Has manipulated their housing circumstances in order to achieve a priority to which they would otherwise not be entitled.
- IX. Refuses to disclose any information which is requested by the Council either on the application form or at subsequent interviews and which is required either for the purpose of assessing the application or for estate management purposes.
- X. Provides false or misleading information either on the application form or at subsequent interviews. Section 32 of the 2009 Housing Act provides that the provision of false or misleading information is an offence which is prosecutable under law.

Or

- XI. Where such an allocation would be contrary to good estate management.
- XII. Where an Abandonment Notice has been served on a house occupied by the applicant and/or a member of the applicant's household
- XIII. Where the allocation would result in excessive overcrowding
- XIV. Any further circumstances as contained in Kerry Local Authorities Adopted Anti-Social Behaviour Strategy.

7 Transfers of Tenants

- 7.1 Tenants of Council dwellings including tenants of dwellings provided under the Social Housing Leasing Initiative, RAS, or by AHB's will not normally be considered for transfer to other Council dwellings except under the following circumstances:
- (a) Overcrowding
 - (b) Where elderly and other small households wish to surrender family type accommodation and move to smaller accommodation
 - (c) Exceptional Medical and compassionate reasons
 - (d) To facilitate incremental purchase, where the authority has consented to such a purchase.
- 7.2 Notwithstanding the above, tenants seeking a transfer must fulfil the following requirements to the satisfaction of the Council –
- (a) Clear rent account for at least 6 months
 - (b) Service and any other charges paid
 - (c) Have kept their dwelling in a satisfactory condition, subject to inspection,
 - (d) Have complied with all conditions of the Council's Letting Agreement
 - (e) Have no record of anti-social behaviour
 - (f) Have been tenants of the present dwelling for at least two years
 - (g) Good Estate Management

In case of emergency, the foregoing conditions may not apply.

- 7.3 Priority may be given to a household in receipt of social housing support in a property that is not owned by the Council and the house is no longer available to them through no fault/act of their own; i.e. rental accommodation availability arrangements, long term leasing initiatives etc.
- 7.4 Tenants who were transferred to RAS prior to the introduction of the Social Housing Assessment Regulations 2011, on the 01 April 2011, and who had already been qualified housing applicants will be given credit for period since they were qualified where they apply to transfer to another form of social housing support. Allocations shall be made to such tenants in accordance with the Order of Priorities as per Section 3 above.

The Refusal Policy will also apply to applicants for a Transfer.

8 Inter Transfers

- 8.1 Transfers between tenants of the Council and tenants of another Local Authority may be permitted provided that the conditions agreed between the two authorities for such transfers are met. Applications for such consent will not be considered where either tenant is seeking an area or type of dwelling from which he/she had previously transferred or inter-transferred. The Council, in considering applications from tenants to inter-transfer will, in general, have regard to the requirements outlined in Section 7.2.

9 Former Local Authority Tenants

9.1 The Council will not approve Housing Applications from former Local Authority tenants or former RAS tenants for a period of 12 months from date of surrender. Notwithstanding this requirement a decision on their application will be deferred until all of the following conditions are complied with:

- (a) the rent account of their previous tenancy is clear
- (b) no record of Anti-Social Behaviour for 2 years prior to the date of the new application
- (c) all security, cleaning and cost of repairs of any damage done to property by the former tenant is paid in full

In exceptional circumstances, this condition may not apply

10 Pre-Tenancy Courses

10.1 It is the policy of the Council that prospective tenants of all accommodation being provided by the Council must, if requested, attend a Pre-Tenancy Course prior to the granting of a tenancy of a dwelling. The applicant and all members of the applicant's household over the age of 18 must attend. Failure to do so will result in the offer being rescinded.

11 Succession to Tenancy

11.1 In the event of death in the case of joint tenancy, succession tenancy may be allowed to the surviving tenant or tenants if they comply with the following:-

- (a) The tenant must have a clear rent account for at least 6 months. However tenants who are in rent arrears but who have demonstrated a genuine effort over a period of time by complying with an agreement made to reduce arrears by paying regular instalments may also be considered.
- (b) Have all service and other charges fully paid up to date in respect of the property.
- (c) Have not any serious criminal investigation nor a criminal case ongoing against the tenant or occupant nor have been engaged in anti-social behaviour.

11.2 Where a tenant/tenants have died or left, the house may be granted to the next member of the family/household, provided that: -

- (a) They have been a declared occupant of the dwelling for at least 2 years. In certain circumstances this period may be reduced to one year at the discretion of the Council.
- (b) Be aged 18 years of age or older.
- (c) The rent account must be fully paid up to date. However tenants who were in rent arrears but who have demonstrated a genuine effort over a period of time by complying with an agreement made to reduce arrears by paying regular instalments may also be considered.
- (d) Have all service and other charges fully paid up to date in respect of the property.
- (e) Not have any serious criminal investigation or have a criminal case ongoing against them nor have been engaged in anti-social behaviour.
- (f) In the case where there are a number of siblings resident in the property the tenancy will be put in joint names.

11.3 Under some circumstances where succession is being considered, the Council may require the family/household member to move to another property if it considers the property to be too large or the property has been designed or adapted for the use of someone with a disability who no longer resides in the property. No succession to the tenancy will be considered where the property has been designated as an Older Persons Dwelling where the person applying for succession is not an elderly person.

12 Illegal Occupation of Council Dwellings

- 12.1 The Council will take appropriate steps to prevent illegal occupation of the Council dwellings. In the event of illegal occupation, the Council will take all necessary measures to ensure the removal of illegal occupants.
- 12.2 Where an illegal occupant has made an application for social housing support, the application will not be considered for the period of illegal occupation plus a further 2 years for Anti Social Behaviour.
- 12.3 The allocation of accommodation to a housing applicant, who was in illegal occupation of a Council dwelling, will not be considered unless the dwelling is surrendered to the Council in the same condition it was prior to its illegal occupation and/or all security, cleaning and cost of repairs of any damage done to property is paid in full.

13 Applications for Joint/Sole Tenancies

- 13.1 Where a dwelling is allocated to an individual and a request is made for a joint tenancy, a joint tenancy may be created once the person who wants to add their name to the tenancy has been a declared resident of the property for a minimum of 12 months and the household has been compliant with 'Kerry Local Authorities Anti-Social and Nuisance Behaviour Strategy'.
- 13.2 In cases where there is a joint tenancy in place and one person wants their name removed from the tenancy a letter must be submitted to this effect and the change in tenancy will come into effect 12 months after receipt of this letter, where the decision to create a sole tenancy is at the discretion of the Council.

14 Legal Separation

- 14.1 In cases where a legal separation agreement or other Court direction exists, the Council will have regard to the terms of that agreement/direction in deciding on that tenancy.

15 Refundable Deposit

- 15.1 Where a local authority applies a deposit scheme, applicants will be required to pay a refundable deposit, which will be refunded when the tenant vacates the dwelling, provided that dwelling is maintained in a satisfactory condition.

16 Review of Scheme

16.1 The Council may from time to time review this allocation scheme, and revise it by way of amendments to the scheme or make a new scheme, subject to the approval of the Council. Before making or amending an allocation scheme, the Council shall provide a draft of the scheme or amendment to the scheme, as the case may be, to the Minister, who may direct the Council to amend the draft scheme or draft amendment, and the Council shall comply with any such direction within such period as may be specified by the Minister.

A copy of the Scheme will be available for public inspection at the offices of the Council during office hours and will also be available on the Council's website.

KERRY LOCAL AUTHORITIES

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