

14th July 2017

To: The Mayor and Each Member of Limerick City & County Council

Limerick City and County Council's Allocation Scheme 2017 as set out in accordance with Section 22 of the Housing (Miscellaneous Provisions) Act 2009, the Social Housing Allocation Regulations 2011 and the Social Housing Allocation (Amendment) Regulations 2016.

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Under Section 22 of the Housing (Miscellaneous Provisions) Act 2009 the adoption of a Housing Allocation Scheme is a reserved function. The Act also states that *"Before making or amending an allocation scheme, a housing authority shall provide a draft of the scheme or amendment to the scheme, as the case may be, to the Minister, who may direct the housing authority to amend the draft scheme or draft amendment, and the housing authority shall comply with any such direction within such a period as may be specified by the Minister"*.

There are two allocation schemes currently in place – one covers allocations in the former City area and one covers allocations in the former County area. Adoption of the draft scheme will ensure that there is a single consistent scheme for Limerick City and County Council.

Following discussion and drafting of the scheme at the Home and Social Development SPCs in 2016, Limerick City and County Council recommended the draft Allocations Scheme 2017 be sent to the Minister for Housing, Planning, Community and Local Government for consideration. Amendments to the draft scheme, made on foot of comments received from the DHPCLG, were agreed at the Home and Social Development SPC on the 3rd July 2017.

The following amendments have been made:

1. Section H(2) has been added which notes that HAP tenants can opt to be placed on the transfer list with no less favourable terms than if they had remained on the main waiting list. Renumbering within Section H has resulted from the above revision.

2. The original Section K(3) is removed as there is no legal provision to refuse allocation of social housing to someone who has voluntarily surrendered social housing in period of 12 months from the date of surrender. The original Section K(4) has been renumbered to K(3) as a result of the above revision.

Recommendation from the Home and Social Development SPC.

That Limerick City and County Council adopt the amended draft Allocation Scheme 2017, in accordance with Section 22 of the Housing (Miscellaneous Provision) Act 2009, the Social Housing Allocation Regulations 2011 and the Social Housing Allocation Amendment Regulations 2016.

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Carmel Kirby

A/Director of Services

Social Development

Limerick City and County Council

Amended Draft **ALLOCATION SCHEME 2017**

*In accordance with
Section 22 of the Housing (Miscellaneous Provisions) Act 2009,
the Social Housing Allocation Regulations 2011 and the Social Housing
Allocation Amendment Regulations 2016*

(A)SCOPE OF THE SCHEME

The manner in which Limerick City and County Council (hereinafter called the Housing Authority) 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 (C) to (E) hereunder.

The purpose of the Allocation Scheme is to provide a means of determining the order of priority to be accorded in the allocation of dwellings to:

- persons assessed as being qualified for social housing support in accordance with Section 20 of the Housing (Miscellaneous Provisions) Act, 2009 (and associated regulations);
- 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.

This allocation scheme applies to –

(a) Dwellings provided under the Housing Acts or Part V of the Planning and Development Act 2000 –

- (i) of which the Housing Authority Limerick City and County Council is the owner,
or
- (ii) of which the Housing Authority is not the owner and which are provided under a contract or lease between the Housing Authority and the owner concerned, including rental accommodation availability agreements,

and

(b) 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.

(B) THE MANNER IN WHICH DWELLINGS ARE ALLOCATED

The manner in which the Housing Authority 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 (C) to (E) hereunder.

(C) ORDER OF PRIORITY

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

1st priority shall be given to applicants living in dwellings deemed to be dangerous as defined in Section 3 of the Sanitary Services Act, 1964 or being displaced by operations of the Local Authority.

2nd priority shall be given to applicants deemed to be homeless under Section 2 of the Housing Act, 1988.

3rd priority shall be given to applicants living in dwellings deemed to be unfit as defined in Section 66 of the Housing Act, 1966.

4th priority shall be given to applicants in need of housing on disability, medical, compassionate or similar grounds.

5th priority shall be given to applicants living in dwellings deemed to be overcrowded as defined in Section 63 of the Housing Act, 1966.

6th priority shall be given to applicants in need of housing who are living in unsuitable accommodation having regard to the particular household circumstances in accordance with 23 (f) Social Housing Assessment Regulations 2011.

7th priority shall be given to persons who are sharing accommodation with another person or persons and who, in the opinion of the Housing Authority, have a reasonable requirement for separate accommodation.

8th priority will be given to applicants not included in any other category above who have been assessed and approved for social housing support.

9th priority shall be given to persons who are, in the opinion of the Housing Authority, not reasonably able to meet the cost of their mortgage and are unable to obtain suitable affordable alternative accommodation.

Whilst 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 Limerick City and County Council.

All Allocations shall be subject to G(ii) hereunder and the principles of good estate management.

All nominations to dwellings owned and provided by Approved Housing Bodies shall also follow the above order of priority.

(D) EXCEPTIONS

Notwithstanding anything in Section C above, the Housing Authority 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: -

- (i) persons in 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 Housing Authority, or exceptional medical or compassionate grounds;
- (ii) persons in a dwelling let to the household under a Chapter 4 tenancy agreement having been assessed under Section 20 (3) i.e. RAS accommodation.

In the allocation of RAS accommodation, the Housing Authority 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 on the waiting list for social housing support, or a combination of both; and will be subject to Clause Gii, hereunder.

(E) MEDICAL REPORT

Where priority is claimed on Disability/Medical Grounds, the applicant shall submit a report from a consultant detailing their disability/medical condition and how this impacts on their housing requirements. The Council in considering the awarding of a priority claimed on medical grounds may seek a recommendation from a medical consultant appointed by the Council or reserves the right to request a report from the applicant's Consultant. The Council reserves the right to seek updated medical reports as required to reassess the applicant's designation on medical grounds as deemed appropriate.

Where priority is awarded, this priority may cover a particular type of accommodation and/or accommodation in a particular area

(F) GENERAL PROVISIONS

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

The Housing Authority may, from time to time, as they see fit, designate a particular number or proportion of dwellings becoming available to the Authority for allocation for all or any of the following purposes:

(a) allocation to particular classes of household as set out hereunder, e.g. persons with disabilities, thus affording priority in the allocation of those dwellings to approved households in the relevant category of need;

- **People with Disabilities:** Including physical, sensory, intellectual/learning or mental health disability.
- **Traveller Households:** Households who wish to be housed in standard social housing supports and in traveller specific accommodation. Accommodation under this category will be provided in accordance with the Council's Traveller Accommodation programme.
- **Older People:** Units and supported accommodation designed to meet the needs of older people.

(b) For allocation to households transferring from other forms of social housing support – i.e. leased units and RAS Units, HAP, Voluntary Housing Units etc.

(c) For particular forms of tenure, including Incremental Purchase Properties designated by Chief Executive Order for use in Incremental Purchase Schemes.

- The procedure applied by the Housing Authority for an Incremental Purchase Scheme will be set out in Part 3 of the 2009 Act and the Housing (Incremental Purchase) regulations 2010. Properties are designated by Manager's Order for use in the Incremental Purchase Scheme.

(d) For allocation under Choice Based Lettings (CBL).

- The procedure applied by the Housing Authority 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 Part G(i) below. 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 Chief Executive Order for use for Choice Based Lettings.

(e) The Housing Authority may, in certain circumstances, disregard any applicant's present accommodation and circumstances, if the Council has reason to believe that the applicant has, deliberately or without good cause and sufficient reason, remained in or taken occupation of unsuitable accommodation primarily to improve the prospects of obtaining a tenancy from the Council.

(f) The Housing Authority may from time to time decide to allow for the setting aside of a house or houses for community use subject to specified terms and conditions.

(g) In the case of a parent living apart from his/her children to whom he/ she have shared custody, social housing support may be allocated for such custody. Where custody of children is shared, evidence of such custody will be required as follows (i) Copy of the legal agreement or court order setting out the custody arrangements. (ii) If no such agreement / order exists, both the applicant and the other parent/guardian of the child /children shall provide a statutory declaration to the effect that an access agreement is in place and submit details thereof.

(h) In the interest of good estate management the Housing Authority will have regard to the need to sustain a balanced community.

(G) REFUSALS

(i) 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 Act of 2009 applies and the latter period shall 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 Housing Authority 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 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.

(ii) Refusal of Housing Authority to Allocate

Notwithstanding anything contained in the Housing Acts 1966 to 2014 or in an Allocation Scheme made under section 22 of the 2009 Act, the Housing Authority may use its right under Section 14(1) (as amended) of the Housing (Miscellaneous Provisions) Act, 1997 to refuse to allocate or defer the allocation of a dwelling to a person where -

(a) the authority considers that the person is/has been engaged in anti-social behaviour or that an allocation to that person would not be in the interest of good estate management,

or

(b) the person fails to provide information, including information relating to persons residing or to reside with that person, which is requested by the Housing Authority and which the Authority considers necessary in connection with an application for an allocation,

and

(c) subject to any further provisions contained within Limerick City and County Council's Adopted Anti-Social Behaviour Strategy

(H) Transfer Applications

1. Tenants of the Housing Authority, including tenants of dwellings provided under the Social Housing Leasing Initiative, RAS or by AHB's may apply for consideration for a transfer to other dwellings, under the following circumstances -

(a) overcrowding;

(b) where older persons and other households wish to move to smaller accommodation (downsizing);

(c) medical/compassionate reasons;

(d) on grounds of anti-social behaviour where the Housing Authority's Estate Management Unit and a Superintendent of An Garda Síochána support the transfer application;

(e) other exceptional circumstances;

(f) to facilitate incremental purchase, where the authority has consented to such a purchase.

2. HAP tenants can opt to be placed on the transfer list with no less favorable terms than if they had remained on the main waiting list.

3. Tenants in receipt of RAS will be given credit for their time on the housing waiting list from the date of their approved housing application, where they apply to transfer to another form of social housing support, and were on the housing list since they commenced their RAS tenancy.

4. Priority may be given to a household in receipt of social housing support in a property that is not owned by the Housing Authority 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.

5. Notwithstanding the above, tenants seeking a transfer must fulfil the following requirements to the satisfaction of the Housing Authority –

(a) Hold tenancy in their present dwelling (Local Authority/Voluntary/RAS/Leased dwelling) for a period of at least 2 years, unless it is a temporary tenancy.

(b) A clear rent account for at least 6 months and the rent account not to be in arrears for an accumulated period of 12 weeks or more at any time in the 3 years preceding the transfer application. Any transfer will take account of rent arrears but allowances may be made where an agreement is in place, and being adhered to by the tenant to address any such arrears over an agreed period of time;

(c) All service and other charges paid up to date.

(d) Have kept their dwellings in a satisfactory condition, subject to inspection.

(e) Have complied with all aspects of any previous tenancy agreement with any Housing Authority.

(f) Have no record of anti-social behaviour as defined by the Housing Acts.

(g) To facilitate house purchase, where tenant is in a Voluntary Body dwelling, and the Local Authority is satisfied that the tenant has the resources to purchase a Local Authority dwelling.

6. In the case of emergency or exceptional medical/compassionate grounds, the Housing Authority may forego any or all of the conditions in granting a transfer of tenancy.

7. Transfers between tenants of Limerick City & County Council and tenants of another Housing Authority or Approved Housing Body may be permitted, provided the conditions agreed between the two Authorities and the conditions of this scheme for such transfers are fully met.

8. A fee will be payable for all transfer applications submitted to the Council, save in the following cases:

(a) Applicants applying for a transfer to facilitate downsizing

(b) Applicants in receipt of RAS or HAP

(c) Transfers within regeneration areas.

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

(I) SUCCESSION TENANCIES

1. In the event of the death of one of the tenants in a joint tenancy, the tenancy will ordinarily be transferred to the surviving tenant or their spouse/Civil partner, provided that he/she has been continuously resident in the dwelling for a continuous period of at least two years immediately prior to the death of the tenant and has been declared for and assessed for rent purposes for that entire period. Periods of residence not declared for rent assessment purposes are not applicable.

2. Where both tenants have died or left, tenancy will ordinarily be transferred to an appropriate member of the family provided that:

(a) He/she has a housing need and is resident and has continued to reside in the house throughout his/her lifetime and has been continually declared for and assessed for rent purposes; **or**

(b) He/she is living in the house and has been declared/assessed for rent purposes, for a continuous period of at least 2 years (or such other period as the Council may allow) immediately prior to the death or departure of the tenant.

3. Where there are two or more surviving members of the family who meet the criteria at (a) or (b) above, a joint tenancy may be granted. Where agreement cannot be reached regarding the family member to succeed, the dwelling automatically reverts to the Housing Authority.

4. Where a legal separation/divorce exists, regard will be had by the Housing Authority to the terms of that agreement in the consideration of any application for succession to a tenancy.

5. Where there is no legal separation or divorce agreement and where the Housing Authority is satisfied that a spouse/Civil partner has vacated the tenancy for a period of at least two years, the Housing Authority may consider an application for succession to the tenancy from the remaining spouse/civil partner and approve the tenancy if considered appropriate. Where a person other than a spouse/Civil partner is a joint tenant/tenant of a dwelling and has not resided in that dwelling for a period of at least two years, the housing authority may consider an application for succession from the remaining members of the household and approve the tenancy if considered appropriate.

6. All succession to Tenancy applications are subject to the following consideration

a) Hold tenancy in their present dwelling (Local Authority/Voluntary/RAS/HAP/Leased) for a period of at least 2 years (or such other period as the Council may allow in exceptional circumstances), unless it is a temporary tenancy;

b) A clear rent account for at least 6 months and the rent account not to be in arrears for an accumulated period of 12 weeks or more at any time in the 3 years preceding the transfer application. Any transfer will take account of rent arrears but allowances may be made where an agreement is in place, and being adhered to by the tenant to address any such arrears over an agreed period of time;

c) All service and other charges paid up to date;

d) Have kept their dwellings in a satisfactory condition, subject to inspection;

e) Have complied with all aspects of any previous tenancy agreement with any Housing Authority;

f) Have no record of anti-social behaviour as defined by the Housing Acts or criminality.

7. In addition to the above, successions will only be considered for immediate family members and or those who have already been approved for permission to reside there. Under some circumstances where succession is being considered, the Housing Authority may require the family member to move to another property if it considers the property to be too large, if the property is subject to development/Regeneration 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 and where the person applying for succession is not an elderly person.

8. Nothing in this Section will prevent reasonable consideration being given in the case of exceptional circumstances in the opinion of the Housing Authority. In this case the

Housing Authority may forego any or all of the conditions in granting a succession of tenancy.

(J) PERMISSION TO RESIDE

1. The consent of the Housing Authority is required where a tenant wishes to have a person/persons reside with him/her. Where an application is made for the consent of the Council to allow someone reside the housing application submitted will be considered on its merits.
2. The granting of permission to reside does not confer a right to succeed to the tenancy. Where the Council is satisfied that the application to reside is being made solely in an effort to succeed to the tenancy the permission to reside will not be granted.
3. Exclusions may apply to applicants who apply to reside in housing units that are designated for certain groups and do not fit the criteria e.g. older people's accommodation.

(K) MISCELLANEOUS CONDITIONS

1. The Housing Authority will endeavour to investigate each applicant's previous housing history and reserves the right to seek all relevant information from other Local Authorities and other statutory agencies such as the HSE or An Garda Síochána with particular reference to anti-social behaviour.
2. The Housing Authority may from time to time review this allocation scheme, and revise it by way of amendments to the scheme or make a new scheme. Before making or amending an allocation scheme, the Housing Authority shall provide a draft of the scheme or amendment to the scheme, as the case may be, to the Minister, who may direct the Housing Authority to amend the draft scheme or draft amendment, and the Housing Authority shall comply with any such direction within such period as may be specified by the Minister. The making of the allocation scheme is a reserved function of the Council.
3. A copy of the Scheme will be available for public inspection on the Housing Authority's website at www.limerick.ie.

(L) RIGHT OF APPEAL

Any person who is aggrieved by the Housing Authority's decision has the right to appeal within 14 days of the Housing Authority's decision. A letter setting out the grounds of appeal should be addressed in writing to:-

Housing Allocation Appeal, Limerick City & County Council, Merchants Quay, Limerick.

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