



Housing and Community Safety Committee

Tuesday, 14 February 2023

NOTICE IS HEREBY GIVEN that a Meeting of the **Housing and Community Safety Committee** is to be held at **Council Chambers, Council Office, High Street, Elgin, IV30 1BX** on **Tuesday, 14 February 2023** at **09:30**.

BUSINESS

1. **Sederunt**
2. **Declaration of Group Decisions and Members Interests ***
3. **Minute of the meeting of the Housing and Community Safety Committee of 15 November 2022** 5 - 8
4. **Written Questions ****
5. **Homelessness Policy Update** 9 - 38
Report by Depute Chief Executive (Economy, Environment and Finance)
6. **Affordable Housing Investment Programme** 39 - 44
Report by Depute Chief Executive (Economy, Environment and Finance)
7. **Question Time *****
Consider any oral question on matters delegated to the Committee in terms of the Council's Scheme of Administration.

Summary of the Housing and Community Safety

Committee functions:

To deal with matters relating to Housing/HMOs, Housing Regeneration, Homelessness, Social Inclusion, Equalities, Community Safety, Anti-Social Behaviour (including road accidents) and Community Liaison.

* **Declaration of Group Decisions and Members Interests** - The Chair of the meeting shall seek declarations from any individual or political group at the beginning of a meeting whether any prior decision has been reached on how the individual or members of the group will vote on any item(s) of business on the Agenda, and if so on which item(s). A prior decision shall be one that the individual or the group deems to be mandatory on the individual or the group members such that the individual or the group members will be subject to sanctions should they not vote in accordance with the prior decision. Any such prior decisions will be recorded in the Minute of the meeting.

** **Written Questions** - Any Member can put one written question about any relevant and competent business within the specified remits not already on the agenda, to the Chair provided it is received by the Proper Officer or Committee Services by 12 noon two working days prior to the day of the meeting. A copy of any written answer provided by the Chair will be tabled at the start of the relevant section of the meeting. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than 10 minutes after the Council has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he or she can submit it in writing to the Proper Officer who will arrange for a written answer to be provided within 7 working days.

*** **Question Time** - At each ordinary meeting of the Committee ten minutes will be allowed for Members questions when any Member of the Committee can put a question to the Chair on any business within the remit of that Section of the Committee. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than ten minutes after the Committee has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he/she can submit it in writing to the proper officer who will arrange for a written answer to be provided within seven working days.

THE MORAY COUNCIL

Housing and Community Safety Committee

SEDERUNT

Councillor Amber Dunbar (Chair)
Councillor Donald Gatt (Depute Chair)

Councillor Theresa Coull (Member)
Councillor John Divers (Member)
Councillor Jérémie Fernandes (Member)
Councillor Sandy Keith (Member)
Councillor Scott Lawrence (Member)
Councillor Marc Macrae (Member)
Councillor Shona Morrison (Member)
Councillor Bridget Mustard (Member)
Councillor Kathleen Robertson (Member)
Councillor Derek Ross (Member)
Councillor John Stuart (Member)
Councillor Draeyk Van Der Horn (Member)

Ms Anna Bamforth (Non-Voting Member)
Ms Jane Bartecki (Non-Voting Member)
Mr Ronald Tolmie (Non-Voting Member)

Clerk Name:	Lindsey Robinson
Clerk Telephone:	07966 120593
Clerk Email:	committee.services@moray.gov.uk

Minute of Meeting of the Housing and Community Safety Committee**Tuesday, 15 November 2022****Council Chambers, Council Office, High Street, Elgin, IV30 1BX****PRESENT**

Councillor Theresa Coull, Councillor John Divers, Councillor Jérémie Fernandes, Councillor Donald Gatt, Councillor Sandy Keith, Councillor Scott Lawrence, Councillor Marc Macrae, Councillor Shona Morrison, Councillor Bridget Mustard, Councillor Kathleen Robertson, Councillor Derek Ross, Councillor Draeyk Van Der Horn, Ms Jane Bartecki

APOLOGIES

Councillor Amber Dunbar, Ms Anna Bamforth, Mr Ronald Tolmie

IN ATTENDANCE

Also in attendance at the above meeting were the Depute Chief Executive (Economy, Environment and Finance), Head of Housing and Property Services, Acting Housing Strategy and Development Manager, Building Services Manager, Housing Services Manager, Housing Needs Manager, Property Asset Manager, Legal Services Manager, and Lindsey Robinson, Committee Services Officer, as Clerk to the Committee.

1. Chair

Councillor Donald Gatt, as Depute Chair of the Housing and Community Safety Committee, chaired the meeting.

2. Declaration of Group Decisions and Members Interests *

In terms of Standing Order 20 and the Councillors' Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Member's interests in respect of any item on the agenda.

3. Resolution

The Committee resolved that under Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting for Items 13 and 14 of business on the grounds that it involves the likely disclosure of exempt information of the class described in the relevant Paragraphs of Part 1 of Schedule 7A of the Act.

Paragraph Number of Minute	Paragraph Number of Schedule 7a and Reason
13	9 - Information on terms proposed or to be proposed by or to the Authority.

14	1 - Information relating to staffing matters. 2 - Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the Authority.
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4. Minute of Meeting of the Housing and Community Safety Committee on 6 September 2022

The minute of the meeting of the Housing and Community Safety Committee dated 6 September 2022 was submitted and approved.

5. Written Questions **

The Committee noted that no written questions had been submitted.

6. Performance Report (Housing and Property Services) Period to September 2022

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee of the performance of the service for the period to 30 September 2022.

During consideration Councillor Robertson sought clarification on whether social media could be utilised to improve tenant participation.

In response, the Head of Housing and Property Services advised that this would be looked into.

Thereafter, the Committee agreed to:

- i. note performance in the areas of Service Planning, Service Performance and other related data to the end of September 2022;
- ii. note the actions being taken to improved performance where required; and
- iii. note compliance with the Scottish Social Housing Charter with inclusion of the Annual Assurance statement and publication of the Scottish Landlords Annual Performance Report.

7. Housing and Property Budget Monitoring to 30 September 2022

A report by the Depute Chief Executive (Economy, Environment and Finance) presented the budget position for the Housing Revenue Account and General Services Other Housing Budget for the period up to 30 September 2022.

Following consideration, where officers answered questions on staffing, evictions, housing completion dates and moss removal, the Committee agreed to note the budget monitoring report for the period to 30 September 2022.

8. Housing Investment 2022-23 to 30 September 2022

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee of the progress of the Housing Investment Programme 2022/23 to 30 September 2022.

Following consideration the Committee agreed to:

- i. note the progress of the Housing Investment Programme to 30 September 2022, as detailed in Section 3 and Appendices I to VI of the report; and
- ii. note the revised Housing Investment Programme projected outturn to 31 March 2023, as detailed in Section 3 and Appendices I to VI of the report.

Councillor Morrison left the meeting during discussion of this item.

9. Scottish Social Housing Charter Compliance

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee of the details of the Council's performance following data published by the Scottish Housing Regulator and compliance with both the Scottish Social Housing Charter and Regulatory Framework.

During consideration Councillor Mustard asked if the guidance relating to equalities published by the Scottish Federation of Housing Associations could be circulated to members - the Head of Housing and Property Services agreed to do this.

Councillor Ross stated that it would be beneficial if the full figures could be included in future reports rather than just the percentages. In response the Head of Housing and Property confirmed that this would be undertaken going forward.

Thereafter, the Committee agreed to:

- i. note the Council's performance against the Scottish Social Housing Charter in 2021/22;
- ii. note the content of the Assurance Statement and Annual Performance report to tenants and other customers; and
- iii. the full figures as well as the percentages being included in future reports.

10. Strategic Housing Investment Plan (SHIP) 2023-24 - 2027-28

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to approve the Council's draft Strategic Housing Investment Plan (SHIP) 2023/24 - 2027/28.

Following consideration the Committee agreed:

- i. to note the draft SHIP
- ii. to approve the consultative draft SHIP submitted to the Scottish Government on 21 October 2022; and
- iii. that further progress reports on the SHIP are presented to this Committee as required.

11. Housing Reserves Policy

A report by the Depute Chief Executive (Economy, Environment and Finance) presented the draft Housing Reserves Policy, at Appendix I of the report, for consideration and approval.

Councillor Morrison returned to the meeting at this juncture.

Following consideration the Committee agreed :

- i. the requirements for a Housing Reserves Policy as detailed in Sections 3 and 4 of the report;
- ii. to approve the draft Housing Reserves Policy as set out in Appendix I of the report; and
- iii. to note that the Policy will have implications for the Housing Revenue Account budget setting process.

12. Question Time ***

The Committee noted that no questions were asked.

13. Building Services Trading Operation Budget 2022-23 - Budget Monitoring [Para 9]

A report by the Depute Chief Executive (Economy, Environment and Finance) presented the Building Services Trading Operating budget monitoring information for the period to 30 September 2022.

Following consideration the Committee agreed to:

- i. note the financial information for the period to 30 September 2022, as detailed in section 5 and Appendix I of the report;
- ii. note Building Services operating performance for the period to 30 September 2022, as set out in section 6 of the report; and
- iii. note the revised projected outturn to 31 March 2023, as detailed in section 7 and Appendix I of the report.

14. Housing Needs Section Service Development [Para 1 and 2]

A report by the Depute Chief Executive informed the Committee of the proposed plans for providing temporary accommodation to homeless applicants following the closure of the hostel at Covesea Road, Elgin.

Following consideration the Committee agreed to:

- i. note the Council's statutory duties towards homeless people;
- ii. acknowledge the imminent closure of Covesea Road, Elgin; and
- iii. the service developments of £54,267 per annum detailed at paragraph 5.1 in the report.



**REPORT TO: HOUSING AND COMMUNITY SAFETY COMMITTEE ON 14
FEBRUARY 2023**

SUBJECT: HOMELESSNESS POLICY UPDATE

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 The purpose of this report is to inform Committee of the requirement to amend the Homelessness Policy, resulting from the Homeless Persons (Scotland) Order 2022, which was laid before Parliament on 20 September 2022 and came into force on 29 November 2022.
- 1.2 This report is submitted to Committee in terms of Section III (G) (4) of the Council's Scheme of Administration relating to the allocation and letting of houses and homelessness.

2. RECOMMENDATION

2.1 It is recommended that the Committee:

- (i) notes the requirement to amend the Homelessness Policy, as detailed in Section 3 and Section 6;**
- (ii) notes that legislative changes, set out in Section 5, were enacted on 29 November 2022;**
- (iii) agree the amendments to the Homelessness Policy, as set out in Section 6 and APPENDIX I; and**
- (iv) notes that monitoring will be undertaken to establish the impact of the changes.**

3. BACKGROUND

- 3.1 The Homelessness Policy was last reviewed and updated in 2021 in order to provide clarity on when the Council would assess a homeless application for intentionality, the context in which this would be applied and to reaffirm the Public Sector Equality Duty. The Homelessness Policy was agreed by the Moray Council on 30 June 2021 (Paragraph 16 of the Minute refers).

- 3.2 The Housing (Scotland) Act 1987 (as amended), sets out how local authorities carry out their homelessness functions. The legislation requires local authorities to make inquiries into the circumstances of the applicant to satisfy themselves if the applicant is homeless or at risk of homelessness within 56 days. Thereafter, the local authority has the power (not a legal duty), if it thinks fit, to determine if the applicant is unintentionally homeless and, in certain cases, if the applicant has a local connection to another local area.
- 3.3 Where the applicant meets the criteria detailed above, the Council has a legal duty to ensure that permanent accommodation is made available for the applicant and any person who might reasonably be expected to reside with them and must provide temporary accommodation until permanent accommodation can be secured.
- 3.4 In 2017 the Scottish Government set up the Homelessness and Rough Sleeping Action Group (HARSAG) in order to develop solutions to end homelessness and rough sleeping in Scotland. In their interim report, HARSAG recommended that local connection referrals be suspended between local authorities in Scotland only, referrals would still be possible to local authorities in England and Wales. Ending the referral powers in Scotland would result in a more consistent service for homeless households across Scotland and avoid homeless households in one area receiving a different service from homeless households in another area. This was accepted by the Scottish Government in 2018 based on the belief that people who are homeless or are at risk of homelessness generally have good reasons to present to a particular authority, and that these reasons should be acknowledged.
- 3.5 In 2019, the Scottish Government consulted on the following HARSAG recommendations:
- to commence the provision in Section 8 of the Homelessness etc. (Scotland) Act 2003 to give Scottish Ministers the power to modify, by statutory order, referrals for local connection;
 - that Ministers use the new power to suspend referrals between local authorities in Scotland; and
 - to commence the provision in Section 4 of the Homelessness etc. (Scotland) Act 2003 to change the duty for local authorities to investigate for intentionality to a power to investigate.
- 3.6 The Homelessness etc. (Scotland) Act 2003 (Commencement No. 4) Order 2019 came into force on 7 November 2019. This legislation:
- required Scottish Ministers make a statement, within 18 months of Section 8 of the Homelessness etc. (Scotland) Act 2003 coming into force, setting out the circumstances in which, and the general criteria by reference to which, the power to modify the local connection provisions are to be exercised. This was extended from 12 months as part of the Coronavirus (Scotland) (No2) Act 2020, in recognition of the sectors ability to respond to the statement during the pandemic. The Ministerial Statement was published in March 2021;
 - gave Scottish Ministers the power to modify the operation of referrals between local authorities within Scotland; and
 - removed the duty for local authorities to investigate intentionality and replaced it with the power to investigate.

- 3.7 The Ministerial Statement on Modifying Local Connection Referrals in Scotland asserted “that those who are experiencing or threatened with homelessness are more likely to resettlement successfully, and avoid repeat homelessness, if they are living in an area of their choosing where they can access the specific services and person-centred support they require and where they are able to integrate successfully into the local community. Additionally, for some households who are homeless or experiencing homelessness, the ability to have a fresh start in another area can be a vitally important factor in helping them to sustain a safe and settled home.”
- 3.8 The changes to the local connection rules, which were due to commence in May 2021, were delayed due to COVID-19 and the need to restrict movement between local authority areas as well as the uncertainty of the impact which the Ukrainian refugee programme may have on homelessness services. The enactment of legislation has amended the rules regarding local connection, as detailed in Section 4 below, to the new position as detailed in Section 5 of this report, requiring further amendment to the Homelessness Policy in order to ensure compliance.

4. LOCAL CONNECTION PROVISIONS

- 4.1 Local authorities have a power to refer unintentionally homeless applicants to another local authority if they were unable to demonstrate their local connection to the area in which they were applying for accommodation. Local connection is defined in section 27 of the Housing (Scotland) Act 1987 as a connection which a person has with an area because:
- they are or were in the past normally resident in it, and this residence was of their own choice; or
 - they are employed in it; or
 - they have family associations; or
 - they have special circumstances.
- 4.2 Prior to 29 November 2022, Moray Council had a discretionary power to refer unintentionally homeless applicants to another local authority if they were able to demonstrate the applicant had no local connection to Moray but did have a local connection to another local authority in Scotland, England or Wales a notification was sent to the authority under section 33(1) of the Housing (Scotland) Act 1987. Duty to house was then accepted by that authority. Where the applicant had no local connection with any local authority, the applicant could apply to any local authority.

5. SUSPENSION OF LOCAL CONNECTION PROVISIONS

- 5.1 The rules on local connection have been modified so that people in housing crisis have the freedom to settle where they choose, with access to the support they need.
- 5.2 The Homeless Persons (Suspension of Referrals between Local Authorities) (Scotland) Order 2022, which came into force on 29 November 2022, suspends the discretionary power of local authorities in Scotland to refer people without a local connection to another Scottish local authority where they do have a local connection.

- 5.3 The suspension of referrals between Scottish local authorities means that households can choose where to make a homeless application. Homeless households will be able to present and receive homelessness assistance, including accommodation, in any Scottish local authority area of their choice, regardless of whether they have a local connection to that area.
- 5.4 Scottish local authorities can still refer applicants to local authorities in England and Wales. The policy behind this is to make sure scarce housing resources are appropriately allocated within Scotland. Moray Council will still accept homeless applications from applicants with a local connection to an English or Welsh local authority and will still have the discretion to determine if the applicant should be referred back to a local authority outwith Scotland.

6. HOMELESSNESS POLICY

- 6.1 The Homelessness Policy (**APPENDIX I**) has been amended to comply with the Homeless Persons (Scotland) Order 2022. Section 16 of the Homelessness Policy sets out that the Council will only use the discretionary power under Section 33 of the Housing (Scotland) Act 1987, as amended, when the following circumstances apply:
- if the applicant has been assessed as unintentionally homeless or threatened with homelessness; and
 - if there are reasons to suggest that the applicant, or any person who might reasonably be expected to reside with him, does not have a local connection with Moray and the applicant, or someone who can reasonably be expected to reside with the applicant, has a local connection with another local authority and there is no risk of domestic abuse in the other local authority area; and
 - if the local authority which either the applicant, or someone who can reasonably be expected to reside with the applicant has a connection with, is outwith Scotland.

7. MONITORING OF ANY IMPACT

- 7.1 The Homeless Persons (Scotland) Order 2022 does not make any changes to the rules on the allocation of housing. Local authorities will have a duty to secure permanent accommodation for any applicants who are not intentionally homeless.
- 7.2 The following table shows the assessment of local connection for homeless applicants in Moray over the last five years and demonstrates that the number of referrals made to another local authority is low. Of the referrals made to other authorities, the majority were made to other Scottish local authorities, which the Council can no longer do.

	2017/18	2018/19	2019/20	2020/21	2021/22
Applications assessed by Moray Council as having a local connection with this LA	527	545	520	448	485
Local connection with another LA (and not with this LA)	8	15	9	5	15
No local connection with any LA	2	7	3	2	6
All	537	567	532	455	506

(Data from the HL1 Annual Return for Moray provided by the Scottish Government)

- 7.3 Although the impact of the Order is not yet known, it is likely that homelessness applications from households with no local connection to the area will increase. There is potential that this may have unintended consequences, despite the low numbers involved. For example:
- Increased homeless presentations which will result in a longer time spent in temporary accommodation and increased waiting times to access suitable permanent accommodation.
 - Increased homeless presentations from households with additional or complex needs will place pressure on services in terms of identifying suitable accommodation, both temporary and permanent and providing support to sustain tenancies.
- Any increase in the number of households entitled to homelessness assistance may create additional pressures on the service and increase the demand for housing which is already high and housing supply is limited. Any additional increase may impact on the ability to deliver ongoing reconfiguration of temporary accommodation and delivery of rapid rehousing as set out in the Rapid Rehousing Transition Plan. The Council will monitor homelessness data to assess the impact of the suspension of local connection provisions and identify any increased demand for and increased pressure on services.
- 7.4 It should be noted that the Order means that local connection powers have been suspended and not permanently repealed. The Scottish Government has acknowledged that there should be a mechanism for dealing with a situation where a particular authority cannot cope with an increased flow of applicants, should this occur. The Housing (Scotland) 1987 Act (as amended), allows for action to be taken in these circumstances and Scottish Ministers retain the power to reverse or alter these modifications, in the event that information comes to light that suggests they are no longer appropriate.
- 7.5 The Scottish Government has stated that it will ensure robust monitoring on the impact on homeless applicants and local authorities to decide whether the power can be permanently removed. In addition, it will engage regularly with local authorities and frontline services to gather qualitative information on the impact of the new legislation, particularly regarding the impact on homelessness services and support services. In the event that monitoring

evidences that a local authority is experiencing difficulties, they will engage directly with the local authority to consider how they can support it.

8. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP)) identify the need to address the shortage of affordable housing and tackle homelessness. The Homelessness Policy will assist the Council to meet its strategic priority within the Local Housing Strategy which is “to prevent and alleviate homelessness”.

(b) Policy and Legal

The Homelessness Policy has been amended to adhere with the Homeless Persons (Scotland) Order 2022, enacted on November 29 2022 and complies with the legal framework contained within the Housing (Scotland) Act 1987 (as amended by the Housing (Scotland) Act 2001 and the Homelessness etc. (Scotland) Act 2003.

(c) Financial implications

Given the relatively low numbers of referral figures for homeless applicants over the past five years, the cost associated with any low level increase in homeless applications locally will be absorbed within existing staffing and resources.

(d) Risk Implications

The removal of local connection provisions may cause an increase in homeless applications. Robust monitoring arrangements in relation to homelessness data have been put in place both locally and nationally. Where the data starts to identify any significant increases in the number of homeless applications being received, Moray Council will work with the Scottish Government to ensure any potential impact is fully re-evaluated.

(e) Staffing Implications

There are no staffing implications arising from this report.

(f) Property

There are no property implications arising from this report.

(g) Equalities/Socio Economic Impact

There are no specific equalities/socio economic impacts arising from this report. An Equality Impact Assessment is not required.

(h) Climate Change and Biodiversity Impacts

There are no climate change/biodiversity impacts arising from this report.

(i) Consultations

This report has been subject to consultation with the Head of Housing and Property, the Housing Needs Manager, the Housing Strategy and Development Manager, Lorraine Paisey (Chief Financial Officer),

Georgina Anderson (Legal Services Senior Solicitor) and Lindsey Robinson (Committee Services Officer) and any comments have been incorporated into the report.

9. CONCLUSION

- 9.1 This report provides Committee with an update on amendments made to the Homelessness Policy in light of legislative changes enacted on 29 November 2022. It details the legislative changes and notes that monitoring will be undertaken both locally and nationally in order to assess the impact of the change.**

Author of Report:	Gillian Henly, Senior Housing Officer (Policy)
Background Papers:	Held by author
Ref:	SPMAN-1285234812-1231



MORAY COUNCIL

HOUSING AND PROPERTY SERVICES

HOMELESSNESS POLICY

1. [Scope of the policy](#)
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1. Scope of the policy

- 1.1 The scope of this policy is to provide clear and transparent detail regarding the activities and responsibilities of the Council to people who are homeless or threatened with homelessness.
- 1.2 Homelessness is not a lifestyle choice that people make; it can happen to anyone, and is the most extreme form of housing need. It is rarely just a 'bricks and mortar' problem - it is a complex issue.
- 1.3 The Council aims to provide realistic solutions to address housing need in order to maximise housing options and alleviate homelessness through its commitment to improve on prevention measures.
- 1.4 For the purposes of this policy, those who use the service, including customers, service users and customers of temporary accommodation will be referred to as customers.

2. Strategic context

- 2.1 The Homelessness Policy will assist the Council to deliver the Moray Local Housing Strategy, Moray 2027, the Council's Corporate Plan, priorities from the Moray 10 Year Plan and the Health and Social Care Moray Strategic Plan.
- 2.2 The Homelessness Policy will assist the Council to meet its strategic priority within the Local Housing Strategy which is "to prevent and alleviate homelessness."
- 2.3 Addressing homelessness requires a multi-disciplinary, multi-agency approach both within (corporate) and across (partnership) individual organisations, agencies or sectors. The Council is committed to effective partnership working on both a strategic and operational level, with other Council services, external agencies and landlords.

3. Objectives and principles of the policy

- 3.1 The overall aim of Homelessness Policy is to prevent and alleviate homelessness in a sensitive but effective manner and when homelessness does occur, to provide responsive and sustainable solutions which minimise its impact on affected households.
- 3.2 The specific objectives of the Homelessness Policy are to:
 - maximise housing options and early intervention mechanisms;
 - reduce the duration of homelessness when it does occur;
 - ensure that where temporary accommodation is required, it is of an acceptable standard and is affordable;
 - ensure that housing solutions are sustainable through the provision of housing support and other relevant services; and

- promote and engage in joint working arrangements with other Council services and external partners and agencies.

3.3 The principles of the Homelessness Policy are to:

- comply with legislation and guidance and promote best practice;
- ensure consistency in the provision of services by providing staff training and implementing detailed procedures and agreed practices uniformly across the service;
- deliver good quality services which are efficient and effective; and
- provide services that adhere to the principles of equal opportunities.

4. The legal and regulatory framework

4.1 Moray Council will ensure that the policy complies with current legislation, promotes good practice and has regard for:

- the [Code of Guidance on Homelessness](#) – (Interim Update) November 2019 (Code of Guidance);
- Meeting the [Best Interests of Children Facing Homelessness Guidance \(2011\)](#) and [Getting It Right For Every Child](#);
- the [Prevention of Homelessness Guidance \(2009\)](#);
- [Housing Support Duty to Homeless Households - guidance for local authorities](#); and
- [Housing Options Guidance 2016](#).

4.2 The primary legislation relating to the provision of homelessness services is the Housing (Scotland) Act 1987, as amended by the Housing (Scotland) Act 2001 and the Homelessness etc. (Scotland) Act 2003. Part II of the Housing (Scotland) Act 1987, introduced statutory duties on Local Authorities to assist those who are homeless or threatened with homelessness (potentially homeless), including providing accommodation in certain circumstances. Local Authorities will make inquiries into the circumstances of applicants to satisfy themselves whether the applicant is homeless or potentially homeless. Thereafter, the Local Authority may:

- use a discretionary power provided by the legislation, as it thinks fit, to assess whether the applicant has made themselves intentionally homeless (Section 28 of the Housing (Scotland) Act 1987); and
- assess whether the applicant has a local connection with another authority in Scotland, England or Wales.

4.3 Section 32B of the Housing (Scotland) Act 1987 (as inserted by the Housing (Scotland) Act 2010, section 158) places a statutory duty on local authorities to assess the need for housing support services. The types of housing support services are prescribed by the Housing Support Services (Homelessness) (Scotland) Regulations 2012. If the Council has reason to believe that a customer may be in need of one

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Approved by Moray Council on 30 June 2021

Updated on 29 November 2022 in accordance with the Homeless Persons (Suspension of Referrals between Local Authorities) (Scotland) Order 2022

or more of these services, it must assess whether the customer, or any person residing with the customer, is in need of such support. If so, the Council must ensure that the service is provided to the person who needs it.

- 4.4 The Children (Scotland) Act 1995 requires the Council to assess the needs of young people formerly “looked after” by the authority, and provide housing and support solutions to enable them to move on to independent living. The Children and Young People (Scotland) Act 2014, extends care leavers' entitlement to advice, guidance and assistance up to and including the age of twenty-five years old.
- 4.5 The Council adheres to other relevant legislation, including the Matrimonial Homes (Family Protection) (Scotland) Act 1981, the Data Protection Act 2018 and General Data Protection Regulations, the Human Rights Act 1998, the Equality Act 2010 and the Equality Act 2010 (Specific Duties)(Scotland) Regulations 2012.
- 4.6 This policy is concerned with creating equal opportunities for people who are excluded from a most basic human need – a home of their own. The Council recognises that the service deals with a diverse range of people including those who are vulnerable and in highly stressful personal circumstances. The Council will therefore:-
- ensure that all individuals and household are treated sympathetically and with courtesy and respect;
 - be sensitive and respond to the individual needs and circumstances of the people using the services; and
 - monitor services and the outcomes for people using them, to ensure that they are fair and responsive to needs.
- 4.7 The Council will seek to ensure that all applications are assessed in accordance with its duties under the Equalities Act 2010. Full consideration will be given to the Council's Public Sector Equality Duty (PSED) when assessing the applications. This requires public authorities to: eliminate discrimination, harassment and victimisation; advance equality of opportunity; and to foster good relations between persons who share a relevant protected characteristic and those who do not. The Council will also have due regard while considering the circumstances of the case where the applicant is a part of a protected group under this legislation, and detailed in section 4.10 below, prior to reaching any decision or outcome.
- 4.8 At each stage of the decision-making process, officers are required to have the equality duty in mind and focus very sharply on whether an applicant has an actual or probable disability, or other protected characteristic (as defined by the Equality Act 2010), which need enhanced consideration. Where an applicant has a protected

characteristic, inquiries must be even more careful, and fuller reasons must be given for a negative decision.

- 4.9 To support the needs of customers whose first language is not English, the Council will provide translation and interpretation services when needed. The Council will ensure that information is accessible and available in other formats such as large print, tape and Braille, as required.
- 4.10 The Council will endeavour to ensure that no individual is discriminated against on grounds of sex or marital status, on racial grounds, or on grounds of disability, age, sexual orientation, language or social origin, or other personal attributes, including beliefs, or opinions, such as religious beliefs or political opinions.

Regulatory Requirements

- 4.11 In planning and delivering homelessness services, the council will observe the requirements of the Scottish Housing Regulator as set out in the 'Regulation of social housing in Scotland' Framework. This Framework includes how the SHR will regulate housing and homelessness services provided by local authorities. More information of the role of the Scottish Housing Regulator can be found on its website at www.scottishhousingregulator.gov.uk.
- 4.12 In addition to the Scottish Housing Regulator, the council must meet the standards set by the Care Inspectorate for its residential and serviced accommodation. More information on the role of the Care Inspectorate can be found on its website at www.careinspectorate.com.

5. Approach to homelessness in Moray

- 5.1 This policy recognises that homelessness is not just a housing issue. There are a wide variety of reasons why people become homeless or are threatened with homelessness. There can be a single reason or a multiple chain of circumstances that are the causes of homeless risks. Some reasons are outside of an individual's control, such as employment changes, or personal circumstances, such as ill health.
- 5.2 The delivery of the homelessness service is continually reviewed and improved to ensure that it is robust, effective and responsive to the current environment and local context.
- 5.3 The key strategic focus to addressing homelessness in Moray is on housing options. The process starts with the provision of housing information and advice when someone approaches the Council with a housing problem. This approach promotes early intervention and explores all possible tenure options, including social housing, the private rented sector and owner occupation. Trained officers will

examine and assess an individual's options, solutions and choices in the widest sense.

- 5.4 To facilitate early intervention, the Council has discharge protocols and liaison mechanisms in place which ensure that homelessness due to households or individuals leaving institutions (hospital, prison, the armed forces, local authority care or interim supported accommodation) is minimised. The Council will also ensure that advance planning for discharge from institutions and appropriate assessments are carried out in a timely manner.
- 5.5 Awareness raising throughout Moray informs customers of the importance of contacting the Council as soon they find themselves in difficulty that could result in homelessness or a risk of homelessness.
- 5.6 The alleviation of homelessness provides positive impacts and outcomes for individuals, households and the local community. The causes of homelessness are usually a combination of both personal and societal issues. Homelessness can have detrimental and long term effects on households and communities.

6. Accessing the service

- 6.1 The Council will ensure that the homelessness services are accessible to any person who requires assistance, 24 hours a day and 7 days a week.
- 6.2 The service is accessed by the Council's customer service points and contact centre which receive initial enquires and will either provide a response to an enquiry or refer the enquiry to the appropriate team or officer.
- 6.3 In an emergency, out with normal working hours, the Council provides advice and assistance through the Council's Out of Hours Service. The availability of this service is publicised at strategic places throughout Moray and can be accessed using the Out of Hours phone number.

7. Information and advice

- 7.1 The Council will provide free comprehensive information, advice and assistance detailing the full range of options and services available to people who are in housing need, or are homeless or threatened with homelessness. This will explain the context and any constraints within which the service works in order to assist customers to make informed decisions from the range of choices available to them.

- 7.2 The Council will ensure that information resources are reviewed regularly and updated and are readily available both online and at key strategic public places.

8. Provision of support to vulnerable people

- 8.1 Being able to live independently in one's own home requires much more than just securing accommodation. Not only do people need accommodation which is suitable to their personal circumstances (e.g. due to household makeup, disability, or access to services), but they may need care and support to enable them to develop the skills to sustain their accommodation or cope with the limitations of poor health or incapacity.
- 8.2 The Council recognises that people who approach the service may have additional support requirements. In accordance with the Housing Support Policy, the Council will ensure that services are available to households who are homeless or threatened with homelessness and who have an identified need for support. Failure to do so may compromise a tenancy and in some circumstances may lead to an individual experiencing difficulty in living independently.
- 8.3 Staff from the Housing and Property Service will work with a range of other services and agencies to ensure that vulnerable households receive appropriate support to:
- help them to avoid becoming homeless;
 - support them through any period of homelessness; or
 - assist them to resettlement and avoid homelessness recurring in the future.

9. Repeat homelessness

- 9.1 Each year, a number of people will become homeless again for reasons such as housing debt or abandonment. The Council acknowledges that in many cases there are underlying and unaddressed issues, such as poor budgeting skills, that undermine a person's capacity to maintain accommodation in the long-term. If these underlying issues are not addressed, customers may repeatedly fail to sustain their housing and may find it increasingly difficult to access housing (e.g. because of previously accrued housing related debt).
- 9.2 The Council will endeavour to identify the vulnerability factors in each individual case that may lead to further presentations. By assisting customers to address these issues, it is hoped that recurring homelessness will be reduced and ultimately prevented. The type of assistance provided may vary from, housing support to signposting to money advice services.

10. Avoidance of screening

- 10.1 The Council will avoid screening people who approach the service and will ensure that no-one is refused the right to make a homeless application. Care will be taken to ensure staff do not carry out any informal 'first screening', either deliberately or unwittingly. Screening is defined as preventing, deterring or discouraging a person from making an application. The Council will ensure that staff are appropriately trained.
- 10.2 In accordance with the Housing (Scotland) Act 1987 (as amended), any person aged 16 or over who wants to make a homeless application has the right to do so. The Council will ensure that information about this is clearly visible in offices where people in housing crisis are likely to present and in other locations across Moray. The Council has a duty to accept applications from people who are homeless and will be homeless within two months, as defined by the Housing (Scotland) Act 2001.
- 10.3 Every person who contacts the Council with concerns about security of their tenure, potential or actual homelessness will be advised of their right to make a homeless application.

11. Interview standards

- 11.1 Every person will be treated with respect, courtesy and in a non-judgemental manner.
- 11.2 Where possible, customers will be advised prior to an interview that they have the right to be interviewed by a member of staff of the same sex and that they have a right to have a friend, relative or representative present at the interview.
- 11.3 Interviews will take place in a private interview room and at a time and location convenient both for the customer and their personal representative or, if required, interpreter.
- 11.4 Customers will be encouraged to disclose all relevant information. Any information provided will be used in a non-prejudicial way and in complete confidence. All information provided by a customer will be treated confidentially and will only be shared in accordance with the Data Protection Act 2018 and General Data Protection Regulations.
- 11.5 Every customer will receive a clear and simple explanation of this policy and on the Council's procedures for maximising housing options and assessing homelessness applications.

12. Housing options

- 12.1 The Council utilises a housing options approach, delivered by a specialist housing options team. The aim of the team is to provide information and advice in an attempt to resolve housing issues and prevent them escalating.
- 12.2 The housing options team use a person-centred approach to assess a customer's needs and abilities. The intention of this is to:
- identify and address the underlying cause of homelessness or potential homelessness;
 - identify housing options with the customer which suit their circumstances;
 - provide information and advice and realistic housing solutions; and
 - avert a housing crisis and avoid the customer becoming homeless.
- 12.3 Customers are encouraged to approach the service for assistance as soon as a risk to their current housing situation is identified. This early intervention will enable the Council to respond effectively to the presenting issues identified. The earlier the intervention, the greater likelihood there is of a successful resolution. This in turn will increase the opportunity to avoid any detrimental impact on the customer and their household.
- 12.4 Depending on the customer's circumstances, it may be possible to resolve housing problems without them becoming homeless. An initial housing options enquiry will be completed to establish the extent of a customer's housing crisis and determine if there are any intervention actions that could be taken to allow them to remain in or return to their current accommodation. This will only apply where the Council is satisfied that the accommodation is reasonable to continue to occupy. An enquiry may include an interview with customers. Where possible, interviews will be offered on the same day, or on the next working day, that a customer contacts the Council.
- 12.5 Due to the nature of homelessness, the housing options team may be required to take a lead role in co-ordinating assistance from partner agencies and services in an attempt to secure a successful outcome. Where necessary, the Council will refer customers to other independent providers of housing, financial or legal services and can offer access to mediation services for family and neighbour disputes and harassment.
- 13. Inquiries into decision making**
- 13.1 A possible outcome following involvement by the housing options team is that a customer decides to submit a homelessness application.

Every customer will be informed of their right to make a homeless application.

- 13.2 The Council's assessment of homelessness applications will be based on statutory requirements and any subsequent changes to legislation. The enquiry process involves collating all relevant information in relation to the customer's individual/personal circumstances to enable a holistic assessment of the case. The Council will make decisions in accordance with the Housing (Scotland) Act 1987, as amended by the Housing (Scotland) Act 2001 and the Homelessness etc (Scotland) Act 2003 and the Code of Guidance on Homelessness.
- 13.3 The Council is required by law to undertake enquiries into homelessness in a specific order, starting with whether the customer is eligible to apply for assistance, then whether they are homeless, as defined by the legislation. The Council may, if it thinks fit, use the discretionary power set out in Section 28 of the Housing (Scotland) Act 1987 (as amended) to assess whether a person has become homeless or threatened with homelessness intentionally and if they have a local connection with Moray. If the Council opts to use the discretionary power to consider intentionality it will advise the applicant accordingly.
- 13.4 In accordance with Section 24 of the Housing (Scotland) Act 1987 (as amended), a person is homeless if he or she has no accommodation in the United Kingdom or elsewhere which he or she is entitled or permitted to occupy in one of the following ways:-
- by virtue of an interest in it (for example as an owner or customer); or
 - by right or permission, or an implied right or permission, to occupy (for example as a lodger or as a member of an existing household); or by virtue of some protection given by law; or
 - by virtue of a court order.
- This applies to any homeless customer and any other person who would normally reside with them. It also covers the situation where a split household is regarded as being homeless if they would normally reside together, but are not doing so as a consequence of their accommodation situation.
- 13.5 A person is defined in the Housing (Scotland) Act 1987 (as amended) as being threatened with homelessness if he or she is likely to become homeless (as defined above) within two months.
- 13.6 Any customer who is threatened with homelessness will be offered an interview within five working days and customers who are homeless will be offered an interview on the day of their approach or the next working day.

13.7 Where necessary, the Council may request information to support a customer's case and to assist in reaching a decision on homelessness. Examples of such information include:-

- a valid notice to quit (but will not necessarily require that an order or decree for repossession has been obtained); and
- financial information to confirm income remaining after payment of housing costs and any changes in household income.

13.8 The Council will never seek information from an alleged perpetrator of abuse, nor will the Council insist that "proof" must be provided by a third party where there is alleged abuse. Officers will work with Social Work or other specialist agencies, where appropriate, to assist investigations and to support the customer in such cases.

Persons Subject to Immigration Control

13.9 The rights of non-UK nationals to housing and homelessness provisions are a complex area. The Council will ensure that applications received from non-UK nationals are processed in accordance with legislation. Temporary accommodation will be provided pending the outcome of enquiries into eligibility.

14. Reasonableness of occupation

14.1 The Council will investigate whether accommodation is available to the customer, whether it is suitable for them to remain and may ask the customer to provide evidence, depending on their situation.

14.2 In reaching a decision, the Council will consider each case holistically, based on its individual merits including (but not exhaustively):

- the health and safety of the household;
- any other statutory duty the Council has towards the household, including the public sector equality duty;
- overcrowding and condition of existing accommodation i.e. unfitness, dampness and condensation etc;
- information already obtained from functional assessment applications and assistance requested to support functional assessment applications;
- fear of domestic abuse; and
- fear of violence.

14.3 In accordance with legislation, a person will be considered to be threatened by homelessness or homeless where accommodation available to him/her is unreasonable to occupy because:

- the accommodation is below the tolerable standard (BTS);
- the person is living in bed and breakfast accommodation;
- the person is living in a hostel or other accommodation such as a women's refuge, which is not intended to provide long-stay accommodation;

- there is external violence, including racial or other harassment;
- there is a risk of domestic violence;
- continued occupation of the accommodation poses a substantial risk to a person's health;
- the accommodation is impracticable for a particular person because of his or her physical infirmities or disabilities;
- he or she cannot secure entry to it;
- he or she has a mobile home, caravan, houseboat or other moveable structure but has no place where he or she is entitled or permitted to put it or moor it and to live in it;
- the accommodation is both overcrowded within the meaning of section 135 of the Act **and** may endanger health;
- it is not permanent accommodation, and a local authority had a legal duty to house the person at the time he or she occupied it;
- or
- as a result of an emergency e.g. fire or flood.

15. Assessment of intentionality

- 15.1 Where a person has been found to be homeless or threatened with homelessness, the Council can decide to use the discretionary power under Section 28 of the Housing (Scotland) Act 1987 (as amended) Act, as it thinks fit, to investigate whether the applicant became homeless intentionally. The Council will ensure that the individual circumstances of the applicant are considered holistically on a case by case basis before making a decision to use its power to investigate potential intentionality. Any decisions regarding whether the applicant is intentionally homeless will be made based on all of the relevant information regarding the applicant, the law and the criteria stated in the Code of Guidance and the applicant will be advised the Council has opted to consider intentionality
- 15.2 The intentionality criteria allows the Council to distinguish between the case of a person who has become homeless through no fault of their own, and the case of a person, who through deliberate action or inaction, has contributed to their homelessness. Whether or not someone is found to be intentionally homeless the local authority should seek to find solutions to the person's homelessness and offer support to address any difficulties that they face.
- 15.3 The circumstances in which a person is to be regarded as having become intentionally homeless or threatened with homelessness are set out in Section 26 of the Housing (Scotland) Act 1987, as amended. A decision of intentionality will only be made 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;

- it would have been reasonable for the person to have continued to occupy their previous or current accommodation; and
- they were aware of the consequences of his/her actions.

15.4 There will be no automatic presumption of intentionality. Each case will be assessed on its own merit, taking into account the specific circumstances associated with each case. The Council must satisfy itself whether an applicant became homeless or threatened with homelessness intentionally. There is no onus on the applicant to satisfy the Council that they did not become homeless intentionally. Consideration will also be given to the less obvious reasons which may have contributed to the customer's homelessness and inquiries will take account of any relevant factors such as:-

- the threat or occurrence of domestic or external violence;
- mental health problems;
- financial difficulties;
- substance misuse issues;
- age of the customer; and
- health related issues.

15.5 The following are examples when intentionality may be considered:

- voluntary termination of property;
- non-payment of rent or mortgage;
- failure to maintain and conduct a satisfactory tenancy;
- voluntary relinquishment or sale of property without first ensuring that alternative permanent accommodation is available; and
- failure to follow reasonable advice which would have prevented homelessness.

15.6 If the customer is in temporary accommodation they will be required to leave following a reasonable period of time. Consideration will be given to the household's circumstances when determining what a reasonable period is.

15.7 Where the Council decides that a customer is homeless but that they became homeless intentionally, the Council will provide them with advice and guidance in finding accommodation. During this period the customer will be expected to make every effort to find alternative accommodation and may be asked to evidence what they have done to secure accommodation.

15.8 Where the customer is willing to engage, Officers will work with them in order to address the issue which resulted in them becoming intentionally homeless and provide better outcomes (see section 19).

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Approved by Moray Council on 30 June 2021

Updated on 29 November 2022 in accordance with the Homeless Persons (Suspension of Referrals between Local Authorities) (Scotland) Order 2022

- 15.9 Only after the Council is able to demonstrate that it has given the applicant reasonable opportunity, can it end the provision of temporary accommodation and record that it has discharged its legal duties towards the applicant.

16. Assessment of local connection

- 16.1 *The Council may decide to use the discretionary power under Section 33 of the Housing (Scotland) Act 1987 (as amended), as it thinks fit, to refer a homeless applicant to another local authority outwith Scotland for accommodation. In accordance with The Homeless Persons (Suspension of Referrals between Local Authorities) (Scotland) Order 2022, the Council cannot refer a homeless applicant to another local authority area within Scotland. The Council will only make a referral when the following circumstances apply:*

- *If the applicant has been assessed as unintentionally homeless or threatened with homelessness; and*
- *If there are reasons to suggest that the applicant, or any person who might reasonably be expected to reside with him, does not have a local connection with Moray and the applicant, or someone who can reasonably be expected to reside with the applicant, has a local connection with another local authority and there is no risk of domestic abuse in the other local authority area; and*
- *the local authority which either the applicant, or someone who can reasonably be expected to reside with the applicant has a connection with, is out with Scotland.*

The Council will ensure that the individual circumstances of the applicant are considered holistically on a case by case basis before making a decision to use the power to investigate local connection and make a referral to another local authority.

- 16.2 The Council will base its decisions on the definition of local connection in accordance with *Section 27 of the Housing (Scotland) Act 1987 and the Code of Guidance*. This means that a local connection will be established if:

- the customer has been resident in Moray for at least six months in the previous twelve months, or for at least three years during the previous five years;
- the customer or a member of their household is employed in Moray;
- a member of the household has a close family member currently resident in Moray for at least five years; or
- there are special circumstances. For example, where customers have no local connection with anywhere in the United Kingdom.

- 16.3 In accordance with Section 27 of the Housing (Scotland) Act 1987 (as amended by Section 156 of the Housing (Scotland) 2010), any person

who is serving in the armed forces (and those who live with them) will form a local connection with the area they have lived or worked in.

16.4 Any person who is leaving a settled address out with Moray due to violence or harassment and cannot continue to live in their home locality will be accepted as having a local connection.

16.5 A person will not be referred to another local authority if there is a risk of domestic abuse, to either the person or anyone who might reasonably be expected to reside with him or her in that other local authority's area. "Abuse" includes violence, harassment, threatening behaviour, and any other conduct giving rise, or likely to give rise, to physical or mental injury, fear, alarm or distress.

17. Maintaining contact with customers

17.1 Customers will be notified of their decision within 28 days from the date of their homeless application. Where a customer has been assessed as homeless, they will be contacted at least every 3 months to review their circumstances.

17.2 Customers who are placed in temporary accommodation will be contacted on a weekly basis.

18. Notification of outcomes

18.1 Once its inquiries into a homeless application are complete, the Council will, in accordance with the requirements of Section 30 of the Housing (Scotland) Act 1987 (as amended) and the Code of Guidance on Homelessness 2019, notify the applicant in writing of its decision. The decision letter will first and foremost notify the applicant of the decision that has been made based on their individual circumstances and will clearly set out whether the Council has:

- found the applicant to be homeless or threatened with homelessness;
- used its discretionary power to investigate intentionality and whether the applicant is judged to be intentionally homeless or threatened with homelessness; and
- notified or intends to notify another local authority of the application due to a potential local connection with that local authority.

18.2 The decision letter will meet all further requirements set out in the legislation and Code of Guidance by also detailing, the full reasons for reaching the decision, advice on what happens next, contact details of the officer dealing with the application, how to request a review of the decision, a list of sources of independent advice and advice on the availability of temporary accommodation.

- 18.3 The decision will normally be made within 28 days unless sufficient information cannot be obtained in that time. The officer will agree with their line manager on whether to accept the case without the full information or advise the customer that the case will be continued and give reasons why.

19. Review of an intentionality decision

- 19.1 In line with the Code of Guidance on Homelessness 2019, if there is reason to believe that there has been a change in the customer's circumstances, officers can decide to review the earlier decision, taking into account the changed circumstances.
- 19.2 A change in circumstances can include identification of support needs to address certain behaviours, tenancy sustainment issues which may have contributed to or caused the failure of their current tenancy/last accommodation and / or any clinically evidenced decline in health or functional abilities.
- 19.3 The customer will be provided with an extended period of three months in temporary accommodation along with appropriate support to address needs and assist to resolve issues.
- 19.4 The dedicated support worker will provide updates regarding the applicant and whether any progress or effort is being made by them to improve their behaviour and/or issues. The Housing Needs Officer will monitor the situation over three months.
- 19.5 At the end of the three month period the Housing Needs Officer will reassess the application based on whether the applicant has engaged with the support service and any evident commitment or progress they have shown towards improving their situation and/or their ability to sustain a tenancy. This period can be extended to six months, at the discretion of Housing Needs Senior Management, where the applicant is starting to show signs of engagement and progress.
- 19.6 Where sufficient progress has been made within the extended period, the Housing Needs Officer will overturn the intentionally homeless decision. The customer will be advised that the decision has been reviewed and that they have been assessed to be unintentionally homeless and of the rights that they will have to temporary and permanent accommodation (see section 21).

20. Quality assurance

- 20.1 A random sample of 10% of all cases will be quality assured retrospectively (after the decision has been made) by the Senior Housing Needs Officer.

21 Provision of temporary and settled accommodation

- 21.1 The Council does not consider temporary accommodation to be an alternative to having a permanent home and will ensure that time spent in temporary accommodation is as short as possible. However it is recognised that customers may need access to temporary accommodation:-
- while the Council carries out a full investigation into their homelessness and / or;
 - where the Council has assessed that it has a duty to secure accommodation for a household, but has not been able to make an offer of housing.
- 21.2 Where possible, the Council will take into account the wishes of the customer, when arranging temporary accommodation although this will be influenced by the availability of temporary accommodation. The Council will ensure that:-
- accommodation is appropriate to the needs of the customer and their household; and
 - customers are advised of their right to refuse an offer of temporary accommodation and of the procedure for requesting a review of the decision to offer a particular property.
- 21.3 The Council will comply with the requirements of Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 which aims to minimise the amount of time homeless households should spend in unsuitable temporary accommodation to a maximum of seven days unless there are exceptional circumstances. It will seek to minimise bed and breakfast usage for temporary accommodation and will only use it in an emergency or if there is no other suitable temporary accommodation.
- 21.4 All properties rented by the Council will have all necessary licenses and registrations in place.
- 21.5 All temporary accommodation and furnishings provided by the Council will be of a reasonable standard of repair and will comply with fire safety regulations etc. The Council will inspect all temporary accommodation provided on a regular basis. Any damage caused wilfully, accidentally or negligently by the customer, anyone living with a customer or an invited visitor to the customer's temporary accommodation will be recharged to the customer.
- 21.6 Once a customer is placed in temporary accommodation the Council will ensure that contact is maintained, moves to alternative temporary accommodation are kept to a minimum and assistance will be given with health and education registration.

- 21.7 Customers provided with temporary accommodation will be responsible for the payment of any rent and service charges that apply to the property for the duration of their occupancy in line with the Temporary Accommodation Charging Policy. This responsibility extends to the completion of forms required in order to claim any benefits associated with the payment of the rent or service charges. Where requested, assistance to complete forms will be provided.
- 21.8 The Council will work proactively with customers to manage any arrears accrued. However, continued failure by a customer to make regular payments or to engage with the Council, may result in them being asked to leave the temporary accommodation provided to them. This will not change the Council's duties to provide permanent accommodation.
- 21.9 The Council expects that everyone should be able to have quiet enjoyment of their accommodation, without being abused or harassed or subject to noise or other nuisance caused by those around them. Any complaints of antisocial behaviour in temporary accommodation will be investigated. The Council will work proactively with customers to address and tackle antisocial behaviour. However, if the customer does not engage with the Council, it may result in them being asked to leave the accommodation. This will not change the Council's duties to provide permanent accommodation.

Protection of belongings and storage

- 21.10 Where a customer is unable to do so themselves, the Council has a duty to protect the property of those who it believes may be homeless and who have been provided with temporary accommodation. If there are any moveable possessions that cannot be taken into temporary accommodation, and no other suitable arrangements can be made, then the Council will arrange storage for the possessions.
- 21.11 Any removals and storage of belongings will be arranged with private companies and recharged to the customer. A repayment plan for the total amount of removals and storage will be agreed with the customer.
- 21.12 When the Council's duty to provide temporary accommodation ends its duty to protect belongings also ends. The Council will inform the customer of this when they are initially provided with temporary accommodation.

Unclaimed belongings

- 21.13 If the possessions of a customer leaving temporary accommodation are not claimed, the Council will continue to store them for a maximum of six months and the cost recharged. Thereafter, unclaimed

possessions will be disposed of by sale (or to a charity where the money likely to be raised will not offset the costs of the sale).

22. Permanent accommodation

- 22.1 Where a customer is accepted as unintentionally homeless, the Council will seek to provide suitable accommodation using the Council's allocation policy and nomination agreements with Registered Social Landlords (RSLs) and other agencies.
- 22.2 Customers will normally receive **two** reasonable offers of housing. The offer of housing may be made by other housing landlords (such as housing associations).
- 22.3 A "reasonable offer" of housing will be considered on the basis of the size and type of accommodation required, any special education, health or family support reasons or transport or employment. Consideration will also be given to any safety concerns that may exist for the household. At the time of the allocation, the customer will be advised of the procedure for appealing against decisions. This includes the decision to refuse a particular property.
- 22.4 Following the refusal of two reasonable offers of accommodation, the Council will have been deemed to have fulfilled its duty in terms of the homeless legislation. The customer will be provided with temporary accommodation for a reasonable period of time and provided with advice and assistance to enable them to secure alternative accommodation.

23. Requests for a review of a decision

- 23.1 The customer can request a review of the homeless decision or offer of temporary accommodation within 21 days of the date of the decision letter or offer. The customer or their representative should make the request in writing and include the customer's signature or mark.
- 23.2 The request for a review should include the grounds on which it is made. A request for a review will be considered by a senior manager not previously involved with the original decision with a target of 28 days to respond to the customer.
- 23.3 **Complaints – the corporate process**
The Council operates a complaints procedure that is available to any customer. Details of the complaints procedure can be obtained from any Council office or Access Point.
- 23.4 Customers who are unhappy with a decision may seek a judicial review and this does not diminish their right to approach the Ombudsman or the Care Inspectorate.

23.5 Temporary accommodation and protection of furnishings/belongings will be provided, if required, during the review and appeals process.

24. Records management

24.1 It will be necessary for certain information to be exchanged with other agencies with which the service works. This will be carried out in accordance with the terms of Data Protection legislation and any agreed guidelines and/or with respect to any information sharing protocols. This includes statutory agencies such as the Social Work, NHS services, the police and any other relevant voluntary agencies.

24.2 Certain information will be shared with the Scottish Government for statistical monitoring and analysis purposes. The Council will ensure that such information is anonymous.

24.3 The Council will ensure that confidential information will be requested, retained and managed, in accordance with the Moray Council's Information Management Strategy and Record Management Guidelines.

24.4 Information will not be disclosed to third parties without the customer's written consent. This will not apply if failing to share the information would be likely to put the customer, children or other people at risk or harm, or is required by law; if it would prejudice the prevention of crime.

24.5 The Council will ensure that customers have access to individual records by complying with the requirements of Data Protection legislation and by working in accordance with the Moray Council's policies and procedures.

25. Performance monitoring and policy review

25.1 The Council continually monitors its performance in relation to homelessness. Statistical monitoring on homeless performance is used to assist with the Annual Return on the Charter (ARC) to the Scottish Housing Regulator and Scottish Government statistical returns. Performance indicators are presented to the Council's *Housing and Community Safety Committee* or any other relevant Committee on a quarterly basis and are also used for internal monitoring of the service.

25.2 The Council will monitor:-

Annually

Housing Options approaches and outcomes –

- number of new cases in period
- cases closed in period with outcomes –

- homeless application made
- chose not to make homeless application
- lost contact
- other

Quarterly

Homeless assessments completed within 28 days

Homeless reviews

- number requested in the period
- number completed in the period
- percentage completed in target timescale
- percentage where decision is overturned
- average length of time for review

Average length of time in temporary or emergency accommodation by type

- LA ordinary dwelling
 - HA/RSL ordinary dwelling
 - hostel – LA owned
 - hostel – RSL
 - hostel – other
 - bed and breakfast
 - women's refuge
 - private sector lease
 - other
- percentage of households requiring temporary or emergency accommodation to whom an offer was made
 - percentage of temporary or emergency accommodation offers refused in the last year
 - of those households homeless in the last 12 months, the percentage satisfied with the quality of temporary or emergency accommodation
 - number of temporary accommodation units and percentage units void at the end of period.

25.3 These performance indicators will be reported to the *Housing and Community Safety Committee* or any other relevant Committee which has the remit to consider Housing issues. The reports will be public documents but the confidentiality of individual customers' circumstances will be maintained.

25.4 Other statistics will be collected from time to time for management and planning purposes.

- 25.5 Further performance indicators may be developed over a period of time to reflect the requirements resulting from the continued implementation of the Housing (Scotland) Act 2001 and the Homelessness etc (Scotland) Act 2003.
- 25.6 The Council will review the operation of the Homelessness Policy in 2026 or earlier if required by legislative changes.



**REPORT TO: HOUSING AND COMMUNITY SAFETY COMMITTEE ON 14
FEBRUARY 2023**

SUBJECT: MORAY AFFORDABLE HOUSING INVESTMENT PROGRAMME

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 To inform the Committee of progress on the Affordable Housing Investment Programme in Moray.
- 1.2 This report is submitted to Committee in terms of Section III G (10) Council's Scheme of Administration relating to the preparation and implementation of strategic housing plans.

2. RECOMMENDATION

2.1 It is recommended that the Committee:-

- i) **scrutinises and notes progress on the Moray Affordable Housing Investment Programme;**
- ii) **scrutinises and notes progress on the delivery of the Council's new build and acquisition programme; and**
- iii) **scrutinises and notes progress on delivery of housing at Bilbohall, Elgin.**

3. BACKGROUND

- 3.1 The Council receives an annual resource allocation from the Scottish Government to fund the supply of new affordable housing in Moray. The Council's Strategic Housing Investment Plans (SHIP) determines how this funding will be used to plan and deliver the affordable housing priorities of the Local Housing Strategy. The investment and project priorities set out in the SHIP form the basis of an annual Strategic Local Programme Agreement (SLP) between the Council and the Scottish Government. The SLP details the projects that will be funded during the year, the affordable housing developers who will deliver them, the targets for grant expenditure and the milestones by which progress on delivery will be measured. The Council and

Registered Social Landlords (RSLs) are the principal developers of affordable housing in Moray.

- 3.2 On 15 July 2021, the Scottish Government provided the Council with a Resource Planning Assumption (RPA) of £46.2m for 2021/22 to 2025/26.

Year	2021/22	2022/23	2023/24	2024/25	2025/26	Total
Moray	£10.357m	£8.927m	£8.902m	£8.933m	£9.981m	£46.200m

- 3.3 On 15 November 2022, this Committee approved the Council's SHIP (paragraph 10 of the draft Minute refers).

MORAY STRATEGIC LOCAL PROGRAMME

- 4.1 The Scottish Government have issued the Council with a SLP for 2022/23 based on the resource allocation of £8.927m. On 20 April 2022, Officers submitted a signed SLP to the Scottish Government, which detailed the use of this funding.

- 4.2 As in previous years, the Moray programme will be delivered by a combination of the Council and the RSLs, Grampian Housing Association, Cairn Housing Association, Hanover Housing Association and Osprey Housing.

- 4.3 Completions during 2022/23

Site	Town	No of units	Landlord	Completion date (est)
Ferrylea R3 Phase 1	Forres	37	Grampian HA	Aug 2022
Village Garden, Elgin South	Elgin	25	Hanover HA	Sep 2022
Findrassie Phase 1	Elgin	28	Cairn HA	Sep 2022
Total		90		

- 4.4 Currently under construction

Site	Town	No of units	Landlord	Completion date (est)
Banff Road Phase 1	Keith	33	Moray Council	tbc
Fyvie Green, Elgin South	Elgin	17	Moray Council	May 2023
Knockomie (R1)	Forres	28	Cairn HA	Jul 2023
Hamilton Drive	Elgin	4	Osprey	tbc
Ferrylea R3 Phase 2	Forres	43	Grampian HA	tbc
Total		125		

- 4.5 Site start expected during 2023/24

Site	Town	No of units	Landlord	Site start (est)
Garmouth Road	Lhanbryde	32	Grampian HA	tbc
Speyview Phase 1	Aberlour	30	Moray Council	Jun 2023
Bilbohall Phase 1 (R2)	Elgin	tbc	Moray Council	Dec 2023

4.6 Open market acquisitions expected during 2022/23

Location	Town	No of units	Vendor	completion (est)
Pinegrove	Elgin	33	MOD	Mar 2023
Springfield Drive	Elgin	2	MOD	Mar 2023
Pinegrove	Elgin	1	Private seller	Mar 2023
Total		36		

- 4.7 The SHIP provides facility to purchase properties from the open market for provision of affordable housing, where strategic and value for money criteria have been met.
- 4.8 The amount of More Homes Division grant has been over-committed against RPA, but this has the support of the Scottish Government as an opportunity to take advantage of programme slippage in other local authority areas and to contribute to the aims of Housing to 2040.
- 4.9 Officers and local development partners will continue to take steps to ensure that a sufficient pipeline of alternative development opportunities is available as a contingency against slippage. These will be mainly sites already in the SHIP.
- 4.10 Progress on programme delivery will be reported to this Committee on a biannual basis.

5. HRA BUSINESS PLAN AND WIDER ECONOMIC CONDITIONS

- 5.1 The timing of the delivery of new Council housing must be within the capacity for prudential borrowing, taking cognisance of the HRA Business Plan assumptions. Following review of the Housing Business Plan in February 2022, the Council agreed that 50 council houses will be built per annum.
- 5.2 The current economic conditions are adversely affecting progress and affordability. Supply chain shortages are easing, but labour shortages persist. Financial issues relating to increased development costs, interest rates and inflation combined with limited levels of Scottish Government subsidy make achieving financial viability very challenging.
- 5.3 It will be necessary to complete another review of the HRA Business Plan before the Council will be in a position commit to any further construction contracts. The forward programme will also be informed by the ongoing rent restructuring project which is expected to complete during summer 2023.
- 5.4 In this context Moray Council projects have been delayed i.e. Bilbohall, Elgin, and Speyview, Aberlour, or cancelled i.e. the former Spynie Hospital site. Furthermore, it may be necessary to landbank sites and/or delay site starts based on the HRA prudential borrowing position e.g. Banff Road, Keith (Phases 2/3).

6. COUNCIL NEW BUILD AND ACQUISITION PROGRAMME PROGRESS
Bilbohall, Elgin

- 6.1 Planning consent was granted for 194 units and associated shared infrastructure on 23 March 2021. The consented site is owned by Moray Council and Grampian Housing Association. In December 2021, the Council published a tender for 84 units on the Council owned site, and all the associated shared infrastructure, for the second time, with the support of HUB North Scotland Ltd acting as employers agent. Detailed costs have been considered but the current scheme is not financially viable. Officers are currently considering alternative design options in an effort to achieve financial viability.

Speyview, Aberlour Phase 1

- 6.2 Moray Council acquired the land for 30 units, with the support of Scottish Government funding, from Springfield Properties in March 2022. There have been protracted negotiations with Springfield Properties over the development costs, in the context of current volatility in construction industry costs, and also infrastructure difficulties on the site. The purchase was subject to a 1 year buy back agreement. Officers must await the outcome of the next HRA Business Plan review before proceeding.

Spynie Hospital

- 6.3 In the context of financial issues described at Section 5 above, and the procurement difficulties experienced at Bilbohall, the Council has decided that taking forward the proposed development at the former Spynie Hospital site is not the best use of the HRA's available funding. It has therefore withdrawn its interest in the site.

Banff Road, Keith Phase 1

- 6.4 There is a known risk of radon gas in the Keith area, and this has been investigated through the statutory consenting processes for the Banff Road site, where the Building Warrant required Radon measures to be included in the construction. The Council has sought legal advice on the long term liabilities associated with owning these properties and the outcome is awaited. The properties remain in Springfield Properties ownership.

7. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

Addressing the shortage of affordable housing in Moray is a key priority of the Corporate Plan and 10 Year Plan, the Council's Local Housing Strategy and Strategic Housing Investment Plan (SHIP) and the Housing and Property Service Plan. The Strategic Local Programme reflects priorities for investment in the provision of new affordable housing to meet need identified in the Local Housing Strategy.

The affordable housing programme supports the aims of the 10 Year Plan by providing new affordable housing for an increasing population and a growing and diversifying economy. The target of 50 Council

house completions per annum will be delivered within the investment planning and funding framework provided by the programme.

(b) Policy and Legal

The affordable housing supply programme contributes to meeting the Council's statutory duties to address homelessness and meet housing need in Moray.

(c) Financial implications

The report provides details of the resources being made available by the Scottish Government to fund affordable housing in Moray. The Council has agreed that 50 new council houses will be built per annum. The current HRA Business Plan has made provision for the level of borrowing required to fund the Council's housebuilding programme. The increasing cost of the programme may lead to a higher level of borrowing than anticipated in the business plan and therefore reach thresholds earlier than anticipated. Dialogue has taken place with Finance regarding the approach to managing this and modelling of implications and consideration of mitigations will take place to inform any decision to bring forward developments.

(d) Risk Implications

There are no specific risks arising from this report. However, the programme may be impacted by economic and market conditions and site specific issues as developments proceed. In particular, the increase in interest rates will impact on the cost of borrowing. There are processes in place to manage these risks and mitigations considered.

(e) Staffing Implications

There are no staffing implications arising from this report.

(f) Property

The report details the ongoing programme for development of additional affordable housing in Moray in response to strategic needs and specifically the Council new build programme to increase the Council's own supply of affordable housing.

(g) Equalities/Socio Economic Impact

The housing needs of equalities groups are identified in the Local Housing Strategy (LHS). The Moray Affordable Housing Programme seeks to deliver the housing priorities contained in the LHS.

(h) Climate Change and Biodiversity Impacts

The aims of the affordable housing programme are closely aligned to the Council's Climate Change Strategy, and Local Heat and Energy Efficiency Strategy (LHEES).

(i) Consultations

This report has been subject to consultation with the Depute Chief Executive (Economy, Environment and Finance), the Head of Housing and Property Services, Legal Services Senior Solicitor (Georgina

Anderson), the Property Asset Manager, the Head of Economic Growth and Development, the Strategic Planning and Development Manager, the Chief Financial Officer and Lindsey Robinson, Committee Services Officer.

8. CONCLUSIONS

- 8.1 The report provides details of an update on the current and future affordable housing investment programme. The report also provides an update on the Council's own new build and acquisition programme, including an update on procurement of housing at Bilbohall, Elgin.**

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Background Papers:	with author
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