



---

**REPORT TO: COMMUNITIES COMMITTEE ON 20 NOVEMBER 2018**

**SUBJECT: ALLOCATIONS POLICY REVIEW 2018**

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,  
PLANNING AND INFRASTRUCTURE)**

**1. REASON FOR REPORT**

- 1.1 This report provides Communities Committee with the results of the Allocations Policy review consultation. It proposes that a further consultation is carried out on the required changes to the current Allocations Policy and presents a revised draft Allocations Policy for approval.
- 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 Communities Committee:-**

- (i) considers and notes the results of the public consultation as set out in Section 5 of the report;**
- (ii) considers and agrees the proposals for changes to the current Allocations Policy;**
- (iii) agrees to consult further with tenant and other key stakeholders on the proposed changes; and**
- (iv) agrees that this Committee will consider the consultation responses at its meeting in February 2019.**

**3. BACKGROUND**

- 3.1 On 26 June 2018, the Communities Committee was provided with an update on the commencement of the provisions of Part 2 of the Housing (Scotland) Act 2014, herein referred to as the 2014 Act, and of the requirement to review the Allocations Policy to reflect the legislative changes (paragraph 14 of the Minute refers).
- 3.2 Access to social housing is governed by legislation and guidance. Reasonable preference refers to the priority that is given to applicants. The

2014 Act makes several changes to the allocation rules for social landlords which the Council must prepare for by undertaking a review of the Allocations Policy. Not all of the legislative changes are compulsory. Certain legislative changes are optional and can be determined at local level.

- 3.3 Officers identified key issues which need to be considered as part of the review of the Allocations Policy. Changes are required:
- in order to adhere to the 2014 Act;
  - to assist and address the social housing issues identified by the Moray Housing Need and Demand Assessment (HNDA) 2017; and
  - to improve the existing allocations arrangements.
- 3.4 The 2014 Act introduces an additional requirement on social landlords to consult certain groups, before making or altering rules governing the priority of allocation of houses. This includes a requirement for consultation to be ongoing during the review process, rather than when the policy has been finalised. At its meeting on 26 June 2018, the Communities Committee agreed that a public consultation be carried out on the key issues (paragraph 14 of the Minute refers).

#### **4. CONSULTATION**

- 4.1 The consultation was launched on 3 September 2018 and ended on 21 October 2018. The consultation involved:
- developing a survey which gave consultees an overview of the issue, what the current policy is, what the proposed change is and what the potential effect of the change might be;
  - developing an online questionnaire using question mapping, giving consultees the option either to complete the whole survey or answering the specific questions on those issues which are of interest to them; and
  - contacting the following and asking for their feedback:
    - all applicants on the housing list;
    - the Moray Tenants' Forum;
    - the register of interested tenants;
    - Community Councils;
    - Community planning area forums;
    - the Moray Equalities Forum;
    - homelessness and housing support service users; and
    - other key stakeholders including, Health and Social Care, Social Work and representatives from the Armed Forces.
- 4.2 The consultation was made available on the Council's website and was publicised using social media and the local press. Paper copies of the survey were also available on request.
- 4.3 In order to encourage participation, respondents could either answer the survey in full or opt to answer one or more questions on specific key issues. A total of 259 responses were received. 163 (62.9%) were the respondent's own views, 3 (1.6%) stated they represented the view of groups and 93 (35.9%) were not known. Of the responses received, 82 of the respondents were on the waiting list, 15 on the transfer list and 6 were on the homeless list.
- 4.4 Some of the feedback received indicated that some respondents were not aware of the legislative framework and constraints which the Council has a

duty to meet when allocating housing. For example, some respondents suggested that the age of applicants should be raised and some suggested that tenants who live in property that they under occupy should be forced to move. Legislation in Scotland states anyone can apply for housing as long as they are aged 16 or older. The Council cannot force a household to move out of housing which they are under occupying. Therefore, although the feedback is welcome, such comments will not result in any policy change.

4.5 A summary of the responses are provided in **APPENDIX I**.

## **5. DETAIL OF REVIEW**

5.1 The consultation focused on eleven key issues. Respondents were asked the extent to which they agreed or disagreed with the key issue.

### **5.2 Key issue one: Increasing the level of priority we give to applicants who under occupy their homes**

5.2.1 Legislation sets out who landlords must give reasonable preference to and any factors that must not be taken into account. In accordance with the 2014 Act, under occupancy will be a reasonable preference. The Allocations Policy will require to be amended to increase the priority given to applicants who under occupy their home.

5.2.2 The policy review consultation has gone beyond the legislative requirements by proposing that in order to make best use of all social housing stock, the increased priority is given to all social housing tenants who are under occupying their home. This increased priority would apply to both Council tenants and other social housing tenants.

5.2.3 The consultation asked if the policy should be changed to increase the priority given to all social housing applicants who are living in properties which are too big for their needs. Nearly 70% of respondents chose to answer the question on this key issue. Of these, 85.6% strongly agreed/agreed with the proposal, 6% neither agreed nor disagreed and 6% did not agree.

5.2.4 Based on the high levels of agreement, the Allocations Policy will be amended to increase the priority given to all social housing tenants who under occupy their home.

### **5.3 Key issue two: Taking property ownership into account when considering an application for housing**

5.3.1 The 2014 Act gives social landlords discretion to take account of property ownership, in certain circumstances, when deciding on an applicant's priority for housing. This new ground is optional and it is for landlords to determine whether to include it in their Allocations Policy.

5.3.2 Applicants who own property can still find themselves with a need for social housing. For example, relationship breakdown, loss of employment or other income required to sustain ownership, age, infirmity or the need to be near a relative or carer. Analysis of the Housing List revealed that of the 3252 applicants, only 209 (6.43%) were owner occupiers with an assessed housing need.

5.3.3 The consultation asked if the policy should be changed to take property ownership into account. 63% of respondents chose to answer the question on this key issue. Of these, 61.35 % of the respondents strongly agreed/agreed with the proposal, 19% neither agreed or disagreed and 17.8% disagreed/strongly disagreed.

5.3.4 Based on the level of support, there is clearly an argument to take property ownership into account when assessing an application for housing. Some consultees expressed concerns that owner occupiers would be considered for social housing when they already have suitable housing. Several consultees expressed that owner occupiers should sell their home. However, this argument is diluted when evaluated against other factors:

- under the terms of the Allocations Policy, points are awarded to reflect a person's housing need. Therefore, no points are awarded if a person is adequately housed and does not have a housing need.
- many of those applicants, who own their home, are applying for council housing because their current home is not suitable due to a health issue or disability.
- analysis of the housing list identified that of those housing applicants who own their property, the majority of homes are modestly priced, mostly Council Tax Bands A, B or C. It is doubtful if the sale of these properties would release enough money to allow owners to buy another suitable property and resolve their housing situation.
- establishing property ownership can be a complex and time consuming process and there could be associated risks, including:
  - increased timescales for assessing applications for housing due to the difficulties involved in assessing ownership, property value and equity;
  - applicants with a housing need may miss out on receiving an offer of housing;
  - extending the time an older or disabled person spends living in an unsuitable home; and
  - increased administrative costs for the Council.

5.3.5 Approximately half of the owner occupiers on the Housing List are older and therefore may not be in a position to access mortgage credit. In addition they may not be able to find a design of housing suitable for their needs (often ground floor) for sale and at a price which they can afford with their current equity.

5.3.6 Based on these findings, officers would recommend that the Allocations Policy is not amended to take property ownership into account.

#### 5.4 Key issue three: Giving short Scottish secure tenancies to homeowners in specific circumstances

5.4.1 The 2014 Act introduces an optional new ground which allows social landlords flexibility to grant homeowners a short Scottish secure tenancy (SSST) when they have a real housing need and need time to sort out their permanent housing arrangements. SSSTs are offered for temporary lets and have limited security of tenure. The tenancy will not automatically convert to a full Scottish secure tenancy. However, the tenancy will continue at the end of its initial period if neither the tenant nor the landlord takes any action to bring the tenancy to an end.

5.4.2 The consultation asked if the policy should be changed to grant short Scottish secure tenancies to homeowners. 47.5% of respondents chose to answer the question on this key issue. Of these 44.71% of responses strongly agreed/agreed with the proposal, 18.7% neither agreed nor disagreed and 35.8% did not agree.

5.4.3 Analysis of the Council's housing list identified that a high proportion of those homeowners who meet the eligibility criteria for SSSTs have a long term housing need which would not be resolved by offering a short term tenancy. For example, their current home is not suitable due to a health issue. Only 70 owner occupiers (2.15% of the Housing List) may potentially meet the eligibility criteria. However these households may have submitted an application for housing due to relationship breakdown or affordability issues which may mean that an SSST is not a suitable housing option.

5.4.4 Rather than amend the Allocations Policy for a small number of exceptional cases, officers will recommend that applications for housing from homeowners with a short term housing need are referred to the Housing Needs Review Group and each case will be assessed on its own merits. This can be achieved under the current Allocations Policy.

#### 5.5 Key issue four: Suspending applicants from offers of housing in certain circumstances

5.5.1 Section 20B of the 2014 Act amends the Housing (Scotland) Act 1987 to allow social landlords to impose a minimum time before an applicant is eligible for the allocation of housing, in certain circumstances. The circumstances include:

- the applicant has acted in an antisocial matter
- the applicant has certain previous convictions
- the applicant has had an order for recovery of possession on certain grounds made against them
- a previous tenancy has been terminated on the grounds of abandonment or neglect of the property
- there are, or were, certain outstanding debts relating to a previous tenancy
- the applicant made a false statement in an application to a housing list
- the applicant has refused one or more previous offers.

5.5.2 This new power is optional and landlords can choose whether or not to use it. It is important to note that this power does not apply to homeless applicants. The Council would still have a duty under the homelessness legislation to provide homeless applicants with permanent accommodation. Applicants who are suspended under Section 20B of the 2014 Act have a right to appeal to the Sheriff.

5.5.3 The consultation asked if the policy should be changed to include additional powers on suspending applicants from receiving an offer of housing. 58.3% of respondents chose to answer the question on this key issue. Of these, 67.55% strongly agreed/agreed with the proposal, 10.6% neither agreed nor disagreed and 18.54% did not agree.

5.5.4 One respondent who strongly agreed with the change stated "that anyone who flouts the law, causes damage, disrepair or neglect of their allocated housing, who causes a disturbance, etc, should be suspended from any further offers of housing". This can already be addressed by the current

Allocations Policy. Another who supported the potential change, also acknowledged that “this may not make a huge difference as there will be a duty re homelessness”.

- 5.5.5 Analysis of the feedback returned indicated that despite the level of support for including this new power, respondents may not have appreciated that:
- the current Allocations Policy includes instances when applicants may be suspended from an offer of housing;
  - the use of suspensions should be a final resort;
  - landlords should consider the purpose of suspensions and should consider if there are any alternatives that may be available to help manage individual cases; and
  - landlords should try to minimise the number of suspension they make and also minimise the period of time of any suspensions.
- 5.5.6 Currently, in line with legislation and guidance, the Council will assess each case on its own merits, taking into account personal circumstances and the extent of housing need before suspending an applicant from receiving an offer of housing. It strives to work proactively with applicants to ensure that the number of suspensions is kept to a minimum. The Council does not operate a blanket approach in the use of suspensions and will use alternative mechanisms available to it. For example, in instances of antisocial behaviour, offering housing support may assist and encourage the applicant to modify their behaviour.
- 5.5.7 Based on these findings, officers would recommend that the Allocations Policy is not amended in respect of the Section 20B of the 2014 Act. The operation of suspensions should remain as detailed in current policy and should continue to be monitored.
- 5.6 Key issue five: Giving priority to households who live in specialist housing that they no longer need
- 5.6.1 In recent years, local social landlords have been investing in new specialist housing such as wheelchair accessible bungalows and amenity and extra care housing for older people. The turnover of specialist housing stock in Moray is much slower in contrast to other stock, whilst demand continues to grow.
- 5.6.2 There can be situations where those living in the property no longer require specialist housing. However, such households may not have a sufficient priority to be rehoused.
- 5.6.3 The consultation asked if the policy should be changed to award points to those households living in specialist housing that they no longer need. 60.6% of respondents chose to answer the question on this key issue. 88.54% of responses strongly agreed/agreed with the proposal, 5.7% neither agreed nor disagreed and only 3.18% did not agree.
- 5.6.4 Based on the high levels of support, the Allocations Policy will be amended to give priority to households who live in specialist housing that they no longer need.
- 5.6.5 Applicants who are eligible for the underuse of specialist housing points may also be eligible for the Downsizing Incentive Scheme. On 7 March 2017 this

Committee agreed that the Scheme should be extended to include tenants who are living in specialist housing (of any size) which their household no longer needs (paragraph 5 of the Minute refers).

5.7 Key issue six: Giving increased priority to households living in tied accommodation, including armed forces, who will lose their home when their employment ends

- 5.7.1 Those living in tied accommodation may be required to find alternative housing once their employment ends. This includes service personnel. Despite the priority currently awarded in the Allocations Policy, those leaving tied accommodation, often do not have enough points to receive an offer of housing and are required to make a homeless application.
- 5.7.2 In order to prevent homelessness, the review considered if greater priority should be awarded to those living in tied accommodation from up to 3 months before the tenancy ends. This would significantly improve the potential of these applicants receiving an offer of permanent housing before, or when their employment and/or their right to occupy their accommodation come to an end.
- 5.7.3 The consultation asked if the policy should be changed to award higher priority to those living in tied accommodation including armed forces, when their employment ends. 55.6% of respondents chose to answer the question on this key issue. Of these, 61.11% strongly agreed/agreed with the proposal, 11.81% neither agreed nor disagreed and 26.38% disagreed/strongly disagreed.
- 5.7.4 Based on the high levels of support, the Allocations Policy will be amended to give priority to households who live in tied accommodation, including armed forces, who will lose their home when their employment ends.
- 5.7.5 Analysis of the Housing List identified that 48 households live in tied accommodation and may be eligible for these points when their employment ends. Of these, 5 are serving Armed Forces personnel.

5.8 Key issue seven: Giving increased priority to households leaving institutional/supported care, including care experienced young people

- 5.8.1 Households leaving institutional or supported care, including care experienced young people, continue to be recognised as a vulnerable group in society and are more likely to become homeless. Under the current Allocations Policy, the priority awarded to these households is often not sufficient to receive an offer of housing. This can result in the applicant choosing to make a homeless application and spending time in temporary accommodation until they receive an offer of permanent housing.
- 5.8.2 The consultation considered if those leaving institutional or supported care should receive greater priority in the Allocations Policy. It proposed that for care experienced young people the priority will be awarded until the applicant is permanently housed. Thereafter, if the applicant experiences housing difficulties and reappplies (up to the age of 26) a referral would be made to the Housing Needs Review Group to consider the application.
- 5.8.3 The consultation asked if the policy should be changed to award greater priority to households leaving institutional or supported care, including care

experienced young people. 49.42% of respondents chose to answer the question on this key issue. Of these 67.97 % of responses strongly agreed/agreed with the proposal 17.97% neither agreed nor disagreed and 13.28% disagreed/strongly disagreed.

- 5.8.4 Based on the high levels of support, the Allocations Policy will be amended to increase the priority given to households leaving institutional/supported care, including care experienced young people.

5.9 Key issue eight: Changing the rules on the size of property that we offer couples

- 5.9.1 Moray has a shortfall of one bedroom properties. In order to make best use of housing stock and meet housing need, the consultation asked if the policy should be changed to provide flexibility for the house size that couples without children may be considered for. The house size couples would be considered for would not to be restricted to one bedroom properties and couples may also be considered for two bedroom properties.

- 5.9.2 The consultation asked if the policy should be changed so that couples can be considered for both one and two bedroom properties. 57.91% of respondents chose to answer the question on this key issue. Of these 63.33% of responses strongly agreed/agreed with the proposal 7.33% neither agreed nor disagreed and 26.67% disagreed/strongly disagreed.

- 5.9.3 Based on the high levels of support, the Allocations Policy will be amended to provide flexibility to offer couples without children two bedroom properties.

5.10 Key issue nine: Placing applicants aged 70 years and over on the list for ground floor properties

- 5.10.1 Different criteria are applied when considering the suitability of households for certain types of property. For example, separate lists are maintained for sheltered housing or ground floor and specialist housing to make sure that they are allocated to applicants who need them most.

- 5.10.2 Applicants cannot be on more than one list. Currently applicants over 70 years of age are placed on the ground floor waiting list, rather than on the mainstream list, because this age group is likely to need ground floor housing. However, this is not currently detailed in our policy and may not be clear to applicants.

- 5.10.3 The consultation asked if the policy should be changed so that applicants over 70 years old would only be allocated ground floor properties. 55.6% of respondents chose to answer this question. Of these 79.17% of responses strongly agreed/agreed with the proposal 8.33% neither agreed nor disagreed and 11.81% disagreed/strongly disagreed.

- 5.10.4 Based on the high levels of support, the Allocations Policy will be amended to place applicants aged 70 years and over on the list for ground floor properties, unless the applicant states otherwise.



## 5.11 Key issue ten: Changing the review and complaints process

5.11.1 The review considered whether the Council's approach to the Allocations Policy appeals review and complaints arrangements is too complex, inconvenient and stressful for applicants. The review examined if the current arrangements could be streamlined and the process speeded up for applicants who are waiting for a decision.

5.11.2 The consultation asked if the policy should be changed to streamline the arrangements for reviews and complaints. 52.5% of respondents chose to answer the question on this key issue. Of these 87.5 % of responses strongly agreed/agreed with the proposal 11.03% neither agreed nor disagreed and 1.48% disagreed/strongly disagreed.

5.11.3 Based on the high levels of support, the Allocations Policy will be amended to streamline the review and complaints process. An applicant who is not satisfied with decisions made on their application for housing should submit a request for a review in writing to the Senior Housing Needs Officer. This will be considered by a senior manager not previously involved with the original decision with a target of 28 days to respond to the applicant. If an applicant remains dissatisfied, the applicant may write to the Housing Needs Manager to ask that the Housing Needs Review Group consider their case.

## 5.12 Key issue eleven: Publishing and making available a report on the consultation

5.12.1 The 2014 Act introduces more specific requirements for landlords to consult with and take account of the views of others in preparing their allocations policy. Once the consultation has been completed, landlords are required to publish a report on the consultation. The 2014 Act does not advise what should be in the report or how it should be published and made available.

5.12.2 As part of the consultation, it was proposed that following the initial consultation, a report would be presented to the Communities Committee, detailing the consultation outcome and what changes will be made to the Allocations Policy as a result of the consultation. Consultees were advised that this report will be available as a public document on the Council's website.

5.12.3 The consultation asked if consultees agreed with how the report on the consultation will be published and made available. 64.48% of respondents chose to answer the question on this key issue. Of these 73.05% of responses strongly agreed/agreed with the proposal 22.75% neither agreed nor disagreed and 3.6% disagreed/strongly disagreed.

## 6. REVISED DRAFT ALLOCATIONS POLICY

6.1 Legislation and the Scottish Housing Regulator expect social landlords to consult on any changes to housing policies. As there are a number of changes proposed in this review of the Allocations Policy, it is considered that a consultation exercise should be carried out.

6.2 Based on the feedback and recommendations provided in Section 5 of this report, a revised draft Allocations Policy is presented in **APPENDIX II** for the Communities Committee approval, prior to wider consultation.

6.3 It is suggested that consultation on the revised draft Allocations Policy is undertaken from 23 November 2018 until 11 January 2019. This would include the following actions:

- publish the draft policy on the Council website and the Apply4Homes website for feedback;
- develop an online questionnaire to seek feedback on the Council website;
- issue the draft policy to a sample of applicants on the Housing List and request feedback;
- issue the draft policy to the Moray Equalities Forum for feedback; and
- seek feedback from:
  - the Moray Tenants' Forum;
  - the register of interested tenants; and
  - relevant stakeholders.

6.4 Following analysis and consideration of comments received, it is considered that a report on the outcome of the consultation could be brought to this Committee on 5 February 2019.

## **7. FUTURE IMPLEMENTATION**

7.1 Subject to this Committee's approval of revised Allocation Policy in February 2018, an implementation plan will be developed to support a "go live" date from 1 May 2019. This plan will include aspects of system testing and staff training and developing revised procedures on the Allocations Policy.

7.2 A review of all information resources will be required to ensure all information is updated to reflect the agreed changes. This will include updating the Council's website and developing guidance for applicants on the revised process.

## **8. SUMMARY OF IMPLICATIONS**

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

Moray 2026 and the Service Plan identify the need to address the shortage of affordable housing and tackle homelessness. The Allocations Policy seeks to make the best use of the Council's housing stock and promote healthier citizens and adults living healthier, sustainable independent lives safeguarded from harm.

### **(b) Policy and Legal**

The Housing (Scotland) Act 2014 received Royal Assent on 1 April 2014. It amends some aspects of the law on social housing allocations and management. The Council is required to review its Allocations Policy and housing management policies in order to comply with the legislative changes. In addition, the Scottish Social Housing Charter sets out the outcomes expected in relation to access to housing.

### **(c) Financial implications**

There are no financial implications arising from this report. The costs of any consultation process can be carried out within existing budgets.

**(d) Risk Implications**

There are no risk implications arising from this report.

**(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**

An Equalities Impact Assessment will be undertaken as part of the consultation process.

**(h) Consultations**

Consultation on this report has taken place with the Head of Housing and Property, Housing Needs Manager, Housing Services Manager and Officers within the Housing Service, Housing Strategy and Development Manager, Deborah O'Shea (Principal Accountant), Legal Services Manager (Property and Contracts), the Equal Opportunities Officer and Caroline Howie (Committee Services Officer) and any comments have been incorporated into the report.

**9. CONCLUSION**

- 9.1 This report provides the Communities Committee with the results of the Allocations Policy review consultation and presents a revised draft Allocations Policy. The views of the Communities Committee on the draft policy are sought to enable a consultation process to be carried out as described in the report.**

Author of Report: Gillian Henly, Senior Housing Officer (Policy)

Background Papers: [The Housing \(Scotland\) Act 2014, Part 2](#) and [Appendix I](#) (26 June 2018)  
[Allocations Policy Review](#) (17 December 2013)

Ref: APR:NOV18