

REPORT TO: HOUSING COMMITTEE – 18 FEBRUARY 2002

REPORT BY: DIRECTOR OF HOUSING

**REPORT ON: HOUSE LETTING REGULATIONS –
HOUSING (SCOTLAND) ACT 2001**

REPORT NO: 134-2002

1. PURPOSE OF REPORT

- 1.1. To seek Housing Committee approval to make the necessary amendments to the House Letting Regulations to ensure they comply with the Housing (Scotland) Act 2001.

2. RECOMMENDATIONS

It is recommended that:

- 2.1. The changes outlined in Section 7 of this report are approved.
- 2.2. The House Letting Regulations booklet is re-written to reflect the new legislative requirements.

3. FINANCIAL IMPLICATIONS

The recommendations in this report will have the following financial implications:

- Costs involved in printing a new version of the House Letting Regulations booklet. These costs should be covered by existing Revenue Budgets.
- Costs in amending the IT system for allocations to comply with the new legislation. These costs should be covered by existing Revenue Budgets.
- Possible resource implications in providing housing support to those in Short Secure Tenancies. Further investigation will be required to assess the likely costs, although widespread use of Short Secure Tenancies is not anticipated.

4. LOCAL AGENDA IMPLICATIONS

- 4.1. The proposed changes reflect a number of key Dundee 21 Themes: access to good food, water, shelter and fuel at a reasonable cost, access to the skills, knowledge and information needed to enable everyone to play a full part in society.

5. EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1. By approving the changes to the House Letting Regulations recommended in this report, the Council demonstrates its commitment to equal opportunities by eliminating practices and procedures which may have an adverse effect on some groups of Dundee's citizens because of their race, sexuality, age, long-term unemployment, etc.

6. BACKGROUND

- 6.1. The Housing (Scotland) Act 2001 received Royal Assent on 19 July 2001. The legislation relating to admission to housing lists and allocation policies is effective from 1 April 2002.
- 6.2. Other recent pieces of legislation, namely Human Rights Act 1998 and Race Relations (Amendment) Act 2000, also have a bearing on the Council's Housing Allocations policy, and it is necessary the Housing Department complies with all current legislation.
- 6.3. The general principles of the Housing (Scotland) Act 2001 are that:
- All rules covering access to waiting lists and allocations policies will apply equally to Local Authorities and other registered social landlords.
 - Access to waiting lists should be open to all applicants aged 16 or over.
 - Houses should be allocated fairly and according to need.
 - Policies and procedures should eliminate discrimination.
 - Permanent exclusions from waiting lists are no longer permitted. Suspensions or deferrals should be time limited and exceptional.

7. IMPLICATIONS FOR THE CURRENT HOUSE LETTING REGULATIONS

7.1. Access to the Waiting List

The Act prevents people aged 16 or over from being excluded from waiting lists. There can be no restrictions placed on groups of applicants. This does not automatically mean all applicants will qualify for an offer of housing, but they have the right to be placed on the waiting list.

Our House Letting Regulations booklet currently has set criteria about who can apply, e.g. senior citizens who live outwith Dundee but wish to move to the City to be near close relatives or people working in the City, and consequently we should amend the booklet to simplify the application process.

7.2. Suspensions and Deferrals from the Waiting List

The Housing Department will still carry out pre-tenancy (*vetting*) checks on all applicants, and the Council's basic vetting policy will not alter, although permanent exclusion will no longer be permissible.

In line with Scottish Executive guidance, we should have more structure in our checking procedures. We should ensure that when applicants are deferred they know why, and what has to be done by them before a tenancy will be considered, with timescales set for review. In addition, we are required to have a clearly set out appeals procedure.

7.3. **Use of Short Secure Tenancies**

The Act introduces these tenancies, which can be used in certain circumstances eg, when an applicant has been evicted in the last 3 years for anti-social behaviour, Short Secure Tenancies can be given to applicants for a period of between 6-12 months, when their behaviour can be monitored, with a view to giving a secure tenancy at the end of the 12 month period, if the short tenancy has been satisfactory. They will require additional housing support to be provided. The use of the Short Secure Tenancy is discretionary, however, it is recommended that Dundee City Council agree to the use of the SSST in principle. Committee approval is therefore sought to investigate the resources required to manage such tenancies, and to set up a system for operating and monitoring short secure tenancies in the future.

7.4. **Area Restrictions**

Allowance is currently made in the Letting Regulations for a minimum of 25% of all lets in an area to be made to applicants already living in that area. This has been the subject of some discussion as it can be viewed as discriminating against certain groups of applicants, eg minority ethnic applicants, those applying from outwith the city, etc. This rule is another version of the 'local area points', and so should no longer be applied.

7.5. **Age Restrictions**

The Act states that we should not take account of the age of an applicant when **allocating** housing (*providing they are 16 or over*) except in cases where houses are specifically designed or adapted for a particular age group, eg sheltered housing.

We currently impose age restrictions on 16/17 year olds, who are only considered for bedsit accommodation, 18/19 year olds, who are only considered for one bedroom accommodation and couples under 45 who will only be considered for 2 bedroom properties (*although many ask for one bedroom accommodation*).

To ensure we do not breach the new legislation, these age restrictions should be removed. We will still continue to make best use of our housing stock by allocating applicants an appropriate size of housing, eg by allocating larger family sized housing to families, not single persons, regardless of the applicant's age.

7.6. **Time Restrictions – Six Year Rule**

The Act states that we cannot insist on an application being in force for a period of time before an applicant becomes eligible for an offer of housing or for a transfer. This affects the Six Year Rule, which places tenants who are adequately housed in a deferred category of the waiting list until they have completed 6 years in their existing house. Removal of the Six Year Rule would result in 650 tenants being re-instated to the active waiting list. If they are adequately housed, however, the fact that they wish to move elsewhere, but have no identified housing need, would be reflected in the priority their application would receive. In practice, if tenants were only awarded priority time points, most would not qualify for a move until at least 2 or 3 years had passed.

7.7. **Definition of the Family**

The Housing Act gives a new definition of what constitutes a family. Same sex couples are to be given the same rights as married or cohabiting couples.

Extended family members, e.g. grandparents, nieces, brothers, etc., are to be counted as part of the tenant's family, as are step children, and other children brought up by the family as if they were the tenant's own.

This will mean changes to our existing Letting Regulations and procedures to ensure we comply legally and do not discriminate. For example, we currently ask for medical evidence to support applications from families who want to care for another relative who does not presently live with them. Sometimes a medical reason does exist, but often families wish to live together for social reasons.

7.8. **Succession**

The rules governing succession have changed. This will allow two successions to a tenancy, and also requires us to view the rights of carers differently, where they have given up their home to look after the tenant of a property and the tenant subsequently dies.

Our procedures will have to be altered in line with this. For example, carers (aged 16 or over) who have given up their home to provide care for the tenant or a member of their family, and where the house was their only or principal house at the time of the tenant's death will now be eligible to succeed to the tenancy.

8. **CONSULTATION**

The DFTA and Convener's Working Group on Allocations have been consulted in the preparation of this report.

9. **CONCLUSIONS**

- 9.1. The main aim of our allocations policy which is to meet housing need will remain unchanged by the new legislation. In general the changes to housing waiting lists and allocation policies introduced by the Scottish Executive are positive, and provide an opportunity to ensure our procedures eliminate discrimination and are updated to best meet the needs of those seeking housing in the city.

ELAINE ZWIRLEIN
DIRECTOR OF HOUSING

SIGNATURE

DATE
