

REPORT TO: HOUSING COMMITTEE – 19 AUGUST 2002

REPORT BY: DIRECTOR OF HOUSING

REPORT ON: ACCESS POLICY

REPORT NO: 594-2002

1. PURPOSE OF REPORT

The purpose of this report is to outline the legal requirements of the Housing (Scotland) Act 2001 regarding access to waiting lists, and to describe the procedures that must be put in place.

2. RECOMMENDATIONS

- 2.1. The Access Policy Statement (Appendix I) is agreed, and made available to applicants and members of the public.
- 2.2. The Appeals pro-forma at Appendix II is approved.
- 2.3. The broad processes outlined in Section 8 of this report are approved and implemented.
- 2.4. Further development work on the advice and assistance requirements for those who have been suspended is led by the Homelessness Strategy Team.

3. FINANCIAL IMPLICATIONS

- 3.1. Legal compliance with the Housing (Scotland) Act 2001 will result in increased workloads for staff involved in the Access process.
- 3.2. A new duty to provide advice and assistance to those suspended will also increase workloads. The exact cost of this is as yet unknown.

4. LOCAL AGENDA 21 IMPLICATIONS

- 4.1. Local needs are met locally.
- 4.2. Access to good food, water, shelter and fuel at a reasonable cost.

5. EQUAL OPPORTUNITY IMPLICATIONS

- 5.1. Access to facilities, services, goods and people are accessible to all, and every opportunity is taken to make Dundee a more family-friendly and barrier-free City.

6. BACKGROUND

- 6.1. A paper outlining the broad principles of a proposed Access Policy was approved by the Convener's Working Group on House Letting in December 2001.

- 6.2. A Committee Paper outlining briefly the changes we needed to make to our Letting Regulations (including our policy on suspensions/deferrals from the Waiting List) was agreed by Housing Committee on 18 February 2002.
- 6.3. We were required to comply with the Housing (Scotland) Act from 1 April 2002 regarding Access to the Waiting List and Allocations of Housing.
- 6.4. Procedures are now being prepared so that staff are carrying out the steps to ensure compliance with the new legislation.

7. **LEGAL REQUIREMENTS**

- 7.1. The new legislation setting out the legal requirements for access to Waiting Lists is contained in the Housing (Scotland) Act 2001. However, in determining our access policy, we must have regard to other relevant legislation including the Human Rights Act 1998, the Children's (Scotland) Act 1995, the Data Protection Act 1998 and the Race Relations (Amendment) Act 2000.

In addition, our Access Policy must comply with other relevant corporate policies.

- 7.2. The Housing (Scotland) Act 2001 sets out the following legal requirements:

- We must allow all applicants aged 16 or over access to the Waiting List.
- We must carry out an assessment of that applicant's priority for housing.
- We can carry out pre-tenancy checks, and where we find information that makes us believe that the applicant would not sustain a tenancy at the present time, we can suspend the application for a limited period.
- We cannot permanently exclude anyone from the Waiting List.
- We must publish our rules relating to how we allow access to the Waiting List and allocate houses.
- Where we suspend an application we must advise the applicant why we are not prepared to offer housing just now.
- We must give a timescale for the case to be reviewed.
- We must advise the applicant they have a right to appeal (Appendix II)
- We must provide advice and assistance to the applicant on the steps they can take to have the suspension removed.

(This is a new area of work, and it is anticipated that whilst Housing staff will provide advice, assistance is likely to be provided by the Social Work Department/Welfare Rights Team or through voluntary agencies. Links with these services require to be developed. It is suggested the newly formed Homeless Strategy Team, who have a responsibility for developing policies and procedures to prevent homelessness are best placed to take forward this work).

8. PRE-TENANCY CHECKS

8.1. It is our intention to continue to carry out pre-tenancy checks on **all** applicants.

8.2. **Waiting List Applicants**

For Waiting List applicants (i.e. those who are not current tenants) we propose the following checks are carried out:

- Proof of identity (date of birth).
- Previous tenancy history (for debt, anti-social behaviour, breach of tenancy).
- Evidence in the public domain (evidence of proven anti-social behaviour).
- Landlord references (current and previous if another local authority, Housing Association, accommodating agency or approved landlord).
- Local knowledge report (to relevant Area Office(s) and Anti-Social Behaviour Team).
- Interview by staff in Tenancy Services Unit.

8.3. In some cases, further checks may be required. Normally this will be where the applicant has no previous tenancy history. These could include:

- Checks on the electoral register.
- Home visit.
- Character references (these could be from schools, employer, GP, Police).

Character references would be sought by the applicant on a voluntary basis. Any charge levied by a referee would have to be paid by the applicant. We could not refuse access to the list on the basis the applicant could not supply a character reference.

8.4. We have to accept that for some applicants, there will be very little, or no information we can find. In these circumstances legally we will have to accept applicants onto the Active List.

8.5. **Transfer Applicants**

For transfer applicants, we are not suggesting any alteration to the current checks. They are:

- Outstanding debt.
- House file (for breach of tenancy, anti-social behaviour).
- Evidence in the public domain (for evidence of proven anti-social behaviour).
- Home visit (to check on condition of house/garden etc.).

8.6. **Reasons for Suspending Applications**

- Debt
 - Where there is no agreement made to repay.
 - An agreement has been signed but no payments made.
 - An agreement has been signed, but payments have been irregular.

- Anti-Social Behaviour
 - Notice of Proceedings served against tenant due to behaviour of tenant, family or visitors.
 - ASBO or interdict against tenant or member of their household.
 - Evidence from previous tenancies.
 - Evidence in the public domain.

- Breach of Tenancy
 - Condition of house/garden/communal area.
 - Vandalism/wilful damage.
 - Breach of tenancy agreement.
 - Reference from current landlord.

- False and Misleading Information
 - Where the applicant has deliberately given us false information or withheld vital information.

8.7. Applications can be suspended at the request of the applicant.

8.8. The procedure to be followed will adhere to legal requirements as set out in Section 7.2 of this report.

8.9. The Housing Allocations System will be amended to allow computerisation of the suspension and appeals system.

8.10. Staff training on legal requirements has commenced.

9. CONCLUSIONS

- 9.1.** The proposed new Access Policy and procedures fall into line with the legal framework of current legislation.
 - 9.2.** It attempts to ensure applicants are treated fairly and consistently, while allowing us to check the suitability of applicants for housing.
10. This report has been prepared in consultation with Legal Section, Support Services.

ELAINE ZWIRLEIN
DIRECTOR OF HOUSING

Signed: _____

Date: _____



ACCESS POLICY STATEMENT

Our policy is to carry out pre-tenancy checks on all applicants, to confirm that someone is able to maintain a tenancy.

We will carry out the following checks:

- If there is a debt from a current or previous tenancy.
- If there is evidence of anti-social behaviour of the applicant or someone in their household, either relating to a tenancy or to community safety.
- If there is evidence that the applicant's current or previous tenancy was not maintained in a satisfactory manner.

Where we find information that makes us believe the applicant could not sustain a tenancy immediately, we may suspend the application for a time.

When we decide to suspend an application we will:

- Explain why we are not prepared to offer housing at the present time, and advise the applicant of the steps they can take to have the suspension lifted.
- Confirm the above in writing and also advise the applicant of the following:
 - that their case will be reviewed – giving them a date when this will happen.
 - that they have the right of appeal against the decision to suspend.
 - to contact us should their circumstances change.

Before we suspend an application, we will take into account the applicant's current circumstances and housing need.

All applicants whose application is suspended will have the right to appeal.

If you think we have failed to do anything we promised, you can complain to the Council under the Complaints Procedure.

If you are homeless, you can contact the Homeless Services Unit, Lily Walker Centre, 105 Ann Street (Tel. 01382 432001).



Elaine Zwirlein, Director of Housing

1-3 Shore Tce., Dundee DD1 3AH
 ☎ 01382 43400
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SUSPENSION APPEAL FORM

Date: _____

Applicant's Ref. No: _____

Name: _____

Address: _____

Reason(s) for Suspension:

Please state clearly why you feel you should be offered housing:

Signature: _____

Date: _____

Please return this to:
 Director of Housing
 1-3 Shore Terrace
 Dundee DD1 3AH

Official Use Only

APPEAL RESULT

Accepted Rejected

Name of Officer _____ Date: _____

YOU HAVE 28 DAYS TO APPEAL