

Appeals for Community Housing Services

**Guidance
notes**



This leaflet provides information on our appeal procedures in relation to decisions made by Community Housing Services

Applicants being assessed under the Homelessness Legislation have a statutory right of appeal – details of which will be given to applicants by their case officer.

If you want to make a comment, suggestion or complaint about a Council service, please visit our website at www.eastlothian.gov.uk

Data Protection

East Lothian Council uses the personal data you provide for purposes associated with the delivery of our services.

For more information see www.eastlothian.gov.uk/communityhousingpn

Personal data will be retained in line with East Lothian Council retention policies.

Data Protection Officer, East Lothian Council, John Muir House, Haddington, EH41 3HA | Email: dpo@eastlothian.gov.uk

How to appeal against a decision

Applicants may appeal against decisions made by Community Housing Services with which they are dissatisfied, for example:

- They can appeal if they think that points awarded are not an accurate reflection of their housing circumstances
- That the offer of housing they have received is not reasonable
- That their application for housing has been suspended

- That their application has been cancelled as part of the Council's annual housing list review
- They have been offered a short Scottish Secure Tenancy (SSST)
- That their request for a Mutual Exchange has been refused

Please see page 11 for further information on how to appeal against a decision made by Community Housing Services.

I don't think my application for housing has been pointed correctly

It may be that there was not sufficient evidence to verify the circumstances of your application and this has resulted in your points level being reduced.

If you are a new applicant, please discuss what information is required with your Community Housing Officer at your local housing office. If you still feel that your points level does not accurately reflect your circumstances, you should appeal in writing to the Community Housing Manager at your local office within 21 days of receiving your points letter.

However, if your application for housing has recently been reviewed, please discuss what information is required with an officer in the Review Team. If you still feel that your points level does not accurately reflect your circumstances, you should appeal in writing to the Team Leader – Review Team within 21 days from receipt of your points letter.

Is an offer of housing reasonable?

Applicants also have a right of appeal in relation to the reasonability of an offer. The Council will make two offers of housing to applicants at the top of the housing list that it feels are reasonable, for example, offers that are in an applicant's area of choice, suitable for their family size and any assessed health needs. Homeless applicants will be made one reasonable offer of housing.

If you do not agree that the offer is reasonable, you can appeal against it. However, it is important to remember that your housing application must contain up-to-date and accurate information.

If you have failed to inform your local housing office or the Review Team about a change in your circumstances that has made an offer 'unreasonable' then it is unlikely that your appeal will be successful.

You must appeal against an offer being unreasonable within 14 days of receiving the offer of housing. Appeals should be returned to the local housing office for the attention of your Community Housing Manager.

Applicants whose applications are dealt with through the Homeless Legislation have a statutory right of appeal to have the decision reviewed by a senior officer not party to the original decision.

Applicants should contact the **Homelessness Unit on 01620 827536** for further information on the appeal process.

What can I do if my housing application has been suspended?

The Council may suspend new applications for housing in certain circumstances.

For example, if there is a history of anti-social behaviour, relevant previous criminal convictions, where there is tenancy related debt, abandonment of property or you provide false information on your application. You can appeal against a decision to suspend a new application for housing directly to the Sheriff Court.

If you are, or have recently been, a homeowner, we will suspend your application for housing until your circumstances change. This is because homeowners are considered to have lower housing needs and more housing options.

We may also suspend your housing application at a later stage. For example, where there are rent arrears (usually totalling more than one month's rent), a history of anti-social behaviour or that the terms of the existing tenancy agreement have been broken. Please see our "Cancellations, suspensions and exclusions" leaflet for more information, this is available from your local area housing office or on our website at www.eastlothian.gov.uk

You can appeal a decision to suspend your application in writing within 21 days of receiving your suspension letter to your Community Housing Manager or the Team Leader – Review Team.

You cannot appeal the decision to suspend your housing application if you have been made and refused two offers of housing. Your housing application will be automatically suspended for a period of 12 months.

Homeless applicants who refuse one reasonable offer of housing will have their homeless priority removed. Any further offers of housing would then be based on any remaining points. Should a subsequent offer be made and refused, their housing application will be suspended for 12 months.

What can I do if my housing application has been cancelled as part of the annual review of the housing list?

East Lothian Council reviews its housing list annually and contacts every applicant to ask them to confirm their circumstances. Applications for housing are only cancelled for the following reasons:

- at the applicants request
- the death of the applicant
- the applicant has been adequately re-housed by the Council or another social landlord and has given their permission to cancel their existing application
- the applicant has moved home by mutual exchange
- the applicant has failed to respond to the initial review letter, reminder letter and cancellation letter (sent by recorded delivery). Additional checks to clarify the applicant's contact details are also carried out with council tax records, the electoral register, and the Council's Revenues Section prior to cancelling an application for housing.

To appeal against the cancellation of a housing application, you must be able to demonstrate good reason for not responding to the review letters. All appeals should be in writing to your Community Housing Manager – who will determine the circumstances of the cancellation and whether to reinstate the application.

What can I do if I have been offered a Short Scottish Secure Tenancy?

A Short Scottish Secure Tenancy (commonly known as a SSST) has many of the features of a Scottish Secure Tenancy (SST) but also has some differences, for example, there is no provision for succession; and security of tenure is limited. The Council will carefully consider the offer of a SSST, and do so only in certain defined circumstances when there are appropriate grounds. The offer of a SSST will also be reviewed at regular intervals and may convert to a Scottish Secure Tenancy (SST) at this point. Should you wish to appeal against being offered a SSST please do so in writing and return it to your Community Housing Manager or Housing Options Officer within 14 days.

In addition, a tenant can also raise proceedings by summary application at the Sheriff Court. You may wish to seek independent housing advice to assist you further.

Your request for a mutual exchange has been refused

If you are a current tenant of East Lothian Council, or a tenant with any other council in the United Kingdom, or a registered social landlord, you can apply to exchange your house with another council or registered social landlord's tenant.

The Council can refuse the mutual exchange request and will tell you the reason for their decision. You can appeal against the decision to refuse your request. You should appeal in writing within 21 days of receiving your mutual exchange refusal letter to the Community Housing Manager at your local housing office.

What can I do if my request to assign my tenancy has been refused?

All Scottish Secure tenants can 'assign' (or give up their rights to) their tenancy to someone else with the consent of their landlord. This person must have lived with them for six months prior to the application to assign (twelve months after the 1st November 2019). A landlord can only refuse permission in certain circumstances. You can appeal the decision to refuse your request for an assignation. You should do so in writing within 21 days of receiving your refusal letter to the Community Housing Manager at your local housing office.

In addition, a tenant can also raise proceedings by summary application at the Sheriff Court. You may wish to seek independent housing advice to assist you further.

What can I do if my request to succeed to a tenancy has been refused?

When a tenant dies, in certain circumstances, the tenancy can pass to a person who is qualified to succeed to that tenancy. This is usually a spouse, cohabitee or same sex partner, a family member, joint tenant or carer who has lived in the tenancy as their only or principal home. A landlord can refuse the request to succeed to the tenancy if the applicant does not meet the qualifying criteria. You can appeal against the decision to refuse your request to succeed to a tenancy. You should do so in writing within 21 days of receiving your refusal letter to the Community Housing Manager at your local housing office.

What can I do if my request to take in a lodger has been refused?

All Scottish Secure tenants can apply to take in a lodger. You must have the landlords written permission to do so. A landlord can only refuse consent where there are reasonable grounds for doing so, for example,

where an order for recovery of possession has been served or where it appears to the landlord that a payment other than reasonable rent is or has been received by the tenant. You can appeal against the decision to refuse your request to take in a lodger. You should do so in writing within 21 days of receiving your refusal letter. In addition, a tenant can also raise proceedings by summary application at the Sheriff Court. You may wish to seek independent housing advice to assist you further.

What happens next?

1st stage appeal

The details of your appeal will be recorded and passed to the appropriate person to deal with. This will normally be the Community Housing Manager. This person may contact you to check that they properly understand your appeal.

We will contact you within 5 working days, acknowledging that we have received your appeal and to let you know the name of the person dealing with it and when to expect a decision. We aim to resolve all appeals within 28 days where possible.

2nd stage appeal

If you are unhappy with the outcome of your 1st stage appeal you can submit a further appeal in writing within 14 days of receiving the decision. The appeal will be considered by someone who has had no previous involvement in case.

Your appeal should be addressed to the Community Housing Services Manager, East Lothian Council, Penston House, Macmerry, East Lothian, EH33 1DX. You should receive a decision within 21 days. This decision is final.

Your rights

Your rights to Council services and to fair and courteous treatment will not be affected by submitting an appeal. If you feel this has happened, please let us know.

Complaints

The appeal decision is final. However, if you are unhappy with how your appeal was handled (rather than the decision itself) you can submit a formal complaint to the Chief Executive in line with the final stage of the Council's Feedback Procedure.

Information is available from local Council offices and online at www.eastlothian.gov.uk

For example, you can make a complaint if you feel we haven't:

- applied our policies or procedures properly
- met our Customer Care standards
- provided accurate advice and information

If you continue to feel you have been unfairly treated then you can contact the Scottish Public Services Ombudsman (SPSO). The SPSO will only normally consider complaints that have completed the internal complaints procedure.

The SPSO is the final stage for handling complaints about public services in Scotland and can investigate complaints about maladministration or service failure.

You should contact the SPSO within 12 months of the date you first noticed the problem you are complaining about. In special circumstances, the Ombudsman may consider matters that have gone on longer than 12 months.

Scottish Public Services Ombudsman (SPSO)
FREEPOST EH641,
Edinburgh, EH3 0BR

Freephone: 0800 377 7330
www.spsa.org.uk/online-contact

Appeal against a decision

**Please return the completed form to your local area housing office.
Contact details on back page.**

Name _____

Address _____

I would like to appeal against the following decision (please tick):

- | | |
|--|--|
| <input type="checkbox"/> Application cancelled | <input type="checkbox"/> Offer of housing not reasonable |
| <input type="checkbox"/> Application suspended | <input type="checkbox"/> Offer of SSST |
| <input type="checkbox"/> Mutual Exchange refused | <input type="checkbox"/> Points level not accurate |
| <input type="checkbox"/> Assignment refused | <input type="checkbox"/> Succession refused |
| <input type="checkbox"/> Sublet refused | <input type="checkbox"/> Lodger refused |

Your reasons for appeal: _____

Date _____ Signature _____

Get in Touch



AREA OFFICES

Call **01620 827 827**, email us or visit your nearest housing office.

MUSSELBURGH	The Brunton, Ladywell Way musselburgharea@eastlothian.gov.uk
PRESTONPANS	Aldhammer House, High Street prestonpansarea@eastlothian.gov.uk
TRANENT	George Johnston Centre, Sanderson's Wynd tranentarea@eastlothian.gov.uk
HADDINGTON	John Muir House, Brewery Park haddeast@eastlothian.gov.uk
NORTH BERWICK	Library & Customer Services, School Road housingnorthberwick@eastlothian.gov.uk
DUNBAR	Bleachingfield Centre, Countess Crescent housingdunbar@eastlothian.gov.uk

To make a comment, suggestion or complaint about a council service, please visit our website at www.eastlothian.gov.uk



Versions of this leaflet can be supplied in Braille, large print, audiotape or in your own language. Please phone customer services if you require assistance on 01620 827 199