

**East Lothian Council
Allocations Policy**

April 2019

Version 1.3

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Section 1: Introduction

This policy is the allocation policy of East Lothian Council. It describes how we let our council houses and set priorities between applicants. It covers both housing list applicants and tenants who wish to transfer to other houses.

The allocation policy forms part of the Council's general policy framework. For example, the policy is linked to other Council strategies such as the East Lothian Plan and the Local Housing Strategy. The allocation policy is, therefore, of high importance in meeting strategic Council objectives.

East Lothian Council is referred to as "we" throughout this policy.

The allocation policy covers the following: -

Section 2 describes the specific aims and objectives of the allocation policy; these points are important as they regulate overall policy and practice.

Section 3 explains the main elements of allocation law that are included in the policy.

Section 4 explains the type of allocation system that we use and why.

Section 5 summarises the main housing needs factors and how we award points.

Section 6 describes what we mean by Specialist Property and how we allocate that property.

Section 7 explains Sustainable Communities and how local lettings plans will work to achieve a balanced community.

Section 8 describes how we manage applications and procedures used to implement the allocation policy effectively.

Section 9 summarises how we check how we are doing. This is carried out through our system of performance indicators.

Section 10 describes how applicants may appeal or make complaints if they are not happy with our decisions on allocations.

The appendices at the end of this booklet provide background information on specific issues dealt with in the allocation policy.

Section 2: Policy Objectives

2.1 The main points of our allocation policy are:

- meeting legal and good practice standards, in particular the range of housing needs specified in allocation and homelessness law

- delivering housing to applicants with different housing needs in order to achieve balanced and sustainable communities
- working in the best possible way so we meet our required standards i.e. our commitments to corporate parenting, kinship & foster carers, refugees & asylum seekers and the Armed Forces.
- to assist in preventing homelessness in line with our Homelessness Strategy
- to ensure equal opportunities for all applicants through an in depth understanding of the needs of service users as part of the allocations process and a commitment to assess and review policies and practices to ensure that they meet the needs of all service users.
- allocating houses based on a detailed evaluation of housing need and demand. We will allocate houses based on both housing need and applicant choice
- making best use of the housing stock. We will promote tenants' rights such as the right to exchange homes. This can help tenants who may be living in a property that is now too big for their needs.
- working in partnership with other housing providers to tackle housing need, in particular the needs of homeless people
- providing applicants with detailed advice and information about their housing options
- processing applicants' personal details in line with legal obligations to ensure confidentiality. To this end, the Council is committed to protecting the rights and privacy of individuals including those rights set out in the General Data Protection Regulation ('GDPR'), Data Protection Act 2018 ('DPA 2018') and other data protection legislation.
- informing applicants about our appeals and complaints system so that applicants can obtain a fair hearing if they are not happy with Council decisions
- checking how we work through performance indicators that cover all stages of the allocation process
- reviewing our policy every three years in consultation with tenants as well as other service users, for instance, housing list applicants

Section 3: Legal & Regulatory Framework

An allocation policy must meet specific legal requirements. Section 3 is a plain language summary of the main legal rules; it is not intended as a precise statement of the law.

The legislative and regulatory framework for the allocation of social rented homes is governed by the **Housing (Scotland) Act 1987** (as amended by the Housing (Scotland) Act 2001), (the 1987 Act) and more recently the Housing (Scotland) Act 2014, (the 2014 Act) which covers social housing allocations and tenancy management

These rules deal with the following issues:

- admission to the housing list
- groups to receive reasonable preference when houses are let
- factors to be ignored when houses are let
- information and publicity, and
- housing information supplied by applicants

3.1 Regulatory Standards

Scottish Social Housing Charter

The Housing (Scotland) Act 2010 required Scottish Ministers to set standards and outcomes to which all social landlords should aim to achieve, and to publish these in a Scottish Social Housing Charter. The Charter first came into effect in 2012 and was revised recently in 2017. It is the responsibility of each landlord to meet these outcomes and standards.

It is the role of the Scottish Housing Regulator to monitor and report on landlords' performance in achieving the outcomes and standards in the Charter. The Charter sets outcomes and standards that:-

- tenants can expect from social landlords, in terms of the quality and value for money of the services they receive, the standard of their homes, and opportunities for communication and participation in the decisions that affect them
- homeless people can expect from social landlords in terms of access to help and advice, the quality of temporary accommodation, and continuing support to help homeless people access and keep a home
- Gypsies/Travellers can expect in terms of the maintenance and management of sites

Each year social landlords must report their achievements in progressing towards the outcomes and standards to their tenants and other service users who use their services. East Lothian Council will publish its Report to Tenants/Service Users on its website at www.eastlothian.gov.uk

Further information regarding the Charter outcomes can be found in the Performance Management Section of this policy.

3.2 Admission to the Housing List

Any person aged **sixteen** years or over is allowed to register on the housing list. Applicants from EU countries who are employed or have a right to reside in this country, or who are normally resident in this country can also register on the housing list. Admission to the list does not mean though, that applicants have a right to be made an offer of housing. The priority given to individual applicants depends on how they are prioritised within our allocation system; this is explained in detail in Section 4.

3.3 Reasonable Preference

The **Housing (Scotland) Act 2014** amends section 20 of the 1987 Act and tells us that certain sections of our community are to be given reasonable preference when allocating houses. Reasonable preference simply means the priority given to these applicants for housing.

These groups are:

- (a) homeless persons and persons threatened with homelessness and who have unmet housing needs;
- (b) people who are living under unsatisfactory housing conditions and who have unmet housing needs; and
- (c) Tenants of houses which are held by a social landlord, which the social landlord selecting its tenants considers to be under-occupied.

3.4 Unmet Housing Need

The first two reasonable preference groups, (a) and (b) above, are subject to the qualification that the applicant should also have unmet housing needs. The 2014 Act tells states that people have unmet housing needs 'where the social landlord considers them to have housing needs which are not capable of being met by housing options available'. Being able to meet their own housing needs could be described as being able to secure suitable accommodation which meets their needs from existing housing options.

East Lothian Council is not required to give reasonable preference to those who are homeless or threatened with homelessness or who are living in unsatisfactory housing conditions if their housing needs can be met in another way.

3.5 Homelessness Responsibilities

It is important to stress that the **Housing (Scotland) Act 1987** also deals with homelessness law; and that applicants have specific housing rights under homelessness law.

Part II of the Housing (Scotland) Act 1987 (as amended by the 2001, 2003 & 2014 Acts) sets out the powers and duties of local authorities in dealing with applications from people seeking help on the grounds that they are homeless or threatened with homelessness.

These duties include providing temporary or permanent accommodation where appropriate and, more generally, the duty to give advice and assistance to anyone threatened with homelessness. Part II of the 1987 Act (as amended) also defines 'persons threatened with homelessness'. A person is threatened with homelessness if it is likely that he or she will become homeless within 2 months.

The Homelessness (Abolition of Priority Need) (Scotland) Order 2012 came into effect on the 31st December 2012 and means that all unintentionally homeless persons, and who have unmet housing needs will be entitled to settled accommodation.

3.6 Rapid Rehousing & Housing First

A safe and secure home is the best base to build and live our lives. Reducing the time people spend homeless and in temporary accommodation also reduces the damage to people's health and wellbeing that being homeless causes. The Homelessness and Rough Sleeping Action Group (HARSAG) made a recommendation that was accepted by the Scottish Government to end rough sleeping and transform the use of temporary accommodation.

Rapid Rehousing means a settled, mainstream housing outcome as quickly as possible where homelessness cannot be prevented.

Housing First provides ordinary, permanent housing as a first, rather than last, response for people with complex needs.

The Scottish Government has asked each local authority to submit to them their Rapid Rehousing Transition Plan (RRTP) by December 2018. The Scottish Government will use our RRTP to assess our progress towards their 5 year vision of a transition to a rapid rehousing approach.

3.7 Circumstances Not Considered

The **Housing (Scotland) Act 1987** (as amended by the 2001 Act) tells us that we must ignore certain matters when selecting tenants; these are:

- the length of time applicants have lived in East Lothian
- housing debt for which applicants are not responsible. For example - rent arrears owed by a former partner
- housing debt where the outstanding amount is not more than 1/12th of the annual charge or whereby there is an agreed arrangement to pay the outstanding liability and the applicant has made payments for at least 3 months
- former housing debt that has been cleared
- non-housing debt, for example, council tax arrears
- the applicants age, except for housing that has been designed or adapted for people of a certain age, such as sheltered housing
- the applicant's income or that of their family

Note: Social landlords can now consider property ownership as part of assessing an applicant's housing needs and their circumstances. Please see Section 4.8 for further information.

3.8 Other Circumstances Not Considered

The **Housing (Scotland) Act 1987** tells us that we must also take no account of whether an applicant lives in East Lothian if the applicant:

- is employed or has been offered employment in the area
- wishes to move into the area to seek employment and we are satisfied that this is the case
- wishes to move into the area to be near a relative or carer
- has special social or medical reasons for needing to be re-housed in the area
- is subject to harassment and so wants to move into the area, or
- runs the risk of domestic violence and so wants to move into the area

The law also covers three specific requirements that we must **not** impose, namely that:

- applications are in place for a minimum period
- a divorce or judicial separation is obtained, or that
- applicants live apart from someone else before they are considered for housing

3.9 Housing Information Supplied by Applicants

Applicants are entitled to view personal information supplied in connection with their application for housing. This is a right contained in the **Housing (Scotland) Act 1987**.

They are also entitled to access personal information as set out in the General Data Protection Regulation ('GDPR'), Data Protection Act 2018 ('DPA 2018') and other data protection legislation.

We provide this information, on request, within **forty** working days.

3.10 Tenant Consultation

The **Housing (Scotland) Act 2001** states that landlords must consult with tenants and registered tenants organisations on proposals that affect them, such as housing management and related standards of service. The **Housing (Scotland) Act 1987** states that any changes must be made publicly available within six months of the alteration being made - this is a legal requirement. More specifically, the **Housing (Scotland) Act 2014** requires social landlords to consult the groups listed. These are:

- applicants on the housing list;
- their tenants;
- registered tenant organisations; □ such other persons as landlords see fit.

The allocation policy is an important housing management policy. It is critical that we involve tenants and other service users in its development and implementation. Information regarding the allocations consultation process is available separately at www.eastlothian.gov.uk.

3.11 Tenant Scrutiny

Tenant scrutiny is a way of giving tenants and their representatives' greater influence and the ability to hold their landlord to account. With the introduction of the Social Housing Charter and the independent Scottish Housing Regulator came the requirement that landlords must be more proactive in self- regulation and must involve tenants in the scrutiny process.

This form of self-assessment is not something new to East Lothian Council and we have good structures already in place through our Tenant Participation Strategy and Scrutiny Framework.

Our objective is to:

Make sure tenants and customers take a lead role in assessing and examining our housing services in a clear and open manner. To report their findings in a way that supports and allows the Council to make improvements and deliver a good quality service, which is value for money and increases tenant and customer satisfaction.

There are many benefits of scrutiny for both the Council and our tenants, some of which include service improvements, efficiency savings and enhanced tenant and customer satisfaction.

3.12 Equalities Issues

The Equality Act 2010 means that everyone has the right to be treated fairly. It protects people from discrimination on the basis of certain characteristics - known as 'protected characteristics'. These are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sexual orientation; sex; marriage and civil partnership.

The purpose of the Public Sector Equality Duty in section 149 of the Equality Act 2010 is to place a general duty on East Lothian Council to ensure that our services are designed to meet the diverse needs of the community and that we build inclusive services. The duties include the responsibility to eliminate unlawful discrimination, harassment and victimization, to advance equality of opportunity and to foster good relations.

East Lothian Council's Equality Plan ensures equal opportunities for all applicants through a solid understanding of the needs of service users as part of the allocations process and a commitment to assess and review policies and practices to ensure that they meet the needs of all service users.

In line with East Lothian Council's positive approach to achieving equal opportunities, an Integrated Impact Assessment was carried out on this policy in March 2019. For a copy of this assessment please email policy@eastlothian.gov.uk

All applications to the housing list will be handled in a non-discriminatory way. This takes account of our duties under relevant equal opportunities legislation.

Section 4: How our Allocation System works

When an application for housing is registered, this is only the beginning of the process. The landlord must assess that person's need and prioritise that need in accordance with legislation and the landlord's published rules or allocations system.

Our main policy objectives are detailed in Section 2. In line with these objectives, we have established an allocation system that:

- meets housing needs as specified in law
- ensures that offers are based on applicants' stated preferences
- addresses local needs in the interests of achieving balanced and sustainable communities

This section now explains the:

- type of allocation system selected
- definition of housing need
- housing groups
- elements of housing need

4.1 The Groups Plus Points System

The groups plus points system involves having separate groups to meet specific needs. Applicants are then placed in the appropriate group(s) depending on their application details.

East Lothian Council has four groups in its allocations system.

- Transfer
- General Need
- Specialist/Adapted Property
- Sustainable Communities

Every year the Councillors in the Cabinet will decide the allocation targets for each group. This allows the Council to be responsive to the changing patterns of housing need by amending targets for individual groups.

Applications will be assessed according to their housing need. (See Section 5).

When a property becomes available, it is automatically placed against one of the four groups. This is in accordance with the agreed allocation targets or by the nature of the property itself, for example, sheltered housing. For Transfers, General Needs and Specialist/Adapted Properties an offer of housing will be made to the applicant with the most points. For Sustainable Communities other rules apply (See Section 7).

Applicants can be placed in more than one group e.g. an applicant may be in the Transfer group, as an existing Council tenant, and also appear in the Specialist/Adapted Property group to reflect their need for sheltered housing. Similarly, an applicant may be in the General Needs group with low housing needs, but also appear in the Sustainable Communities group for consideration.

4.2 Why Groups Plus Points was Chosen

The groups plus points system was selected for the following reasons:-

- It allows us to address the housing needs of the main legal groups as outlined in Section 3

- It means we can meet a varied range of housing needs; this, in turn, supports our policy objective to promote sustainable communities
- The system allows us to base offers on applicants' choices as well as their levels of housing need
- This system was chosen because it allows the Council to set and review targets and monitor activity against each group as well as individual allocations. This allows the Council to be responsive to the changing patterns of housing need by amending targets for individual groups
- It gives us an accurate identification of a wide range of housing needs. This lets us respond quickly to changing patterns of housing need by amending the targets of lets for individual groups

4.3 Groups Plus Points System: Specific Issues

If applicants share the same points, we decide priority based on date of application.

We set targets of numbers of houses to be allocated to each group based on a detailed needs assessment (Section 5.2).

Targets are subject to ongoing review in the light of changing levels of need and demand.

Applicants can choose where they want to live from any of our letting areas, as well as define their preference by house type.

4.4 Housing Groups

The groups that we have adopted cover those specified in law as well as other needs.

Targets for all groups should be set at such a level that allows the Council to demonstrate through the core policy that it gives reasonable preference to those identified as being in housing need as defined by legislation.

- **Transfer**

This group consists of applicants that are already tenants of housing provided by East Lothian Council. These applicants may need to move either to larger or smaller properties, to a different type of property or to a different area.

- **General Needs**

This group consists of those that are not currently tenants of East Lothian Council but may be living with family or friends, occupying private rented accommodation, tenants of other Registered Social Landlords or owners. It also includes those that are homeless or threatened with homelessness.

- **Specialist/Adapted Property**

Applicants in this group require a particular property type due to their particular housing needs, for example, a ground floor property for someone with Health and Housing needs. These property types include sheltered housing, amenity housing, the allocation of pitches for gypsies/travellers and property that has been specially adapted to meet particular needs.

- **Sustainable Communities**

One of the key objectives of the allocations policy is to help establish balanced and sustainable communities. This group consists of applicants that may not have a high housing need but wish to be considered for social housing. Points for housing need are not awarded within this group but the attributes of the applicant are considered, with the date of application determining priority.

East Lothian Council will look to this group when using local lettings plans to achieve balanced and sustainable communities. Any such properties will be identified by the Community Housing Manager in consultation with Councillors and any local tenants & residents groups, within an annually set local lettings plan.

The points awarded in respect of individual needs factors are given in the Points Table contained in Appendix 4.

4.5 Occupancy Levels

East Lothian Council will generally allocate property according to the following occupancy levels.

Family Group	Size of Property
Single person	*Studio flat or 1 bedroom
Couple/civil partnership	1 or 2 bedrooms
Single parent with access to a child/children from a previous relationship	1 or 2 bedrooms
Couple/civil partnership or single parent with 1 permanently resident child	2 bedrooms
Couple/civil partnership or	2 or 3

single parent with 2 permanently resident children	bedrooms
Couple/civil partnership or single parent with 3 permanently resident children	3 bedrooms
Couple/civil partnership who have permanently resident children of different sex, one of whom is over the age of 10	3 bedrooms
Couple/civil partnership or single parent with 4 or more permanently resident children	3 or 4 bedrooms

Definition of a child

A person is considered a child if they are aged 16 or under and still at school; or up to the age of 18 if they are in full time education.

A person aged 16/17 and has left school, who may or may not be working, is considered an adult.

*The Council recognises that studio flat accommodation might not fully meet the needs of housing applicants. Applicants who are allocated a studio flat by East Lothian Council can choose to remain on the housing list, retaining their original date of application.

4.6 Young People who are Care Experienced

Young people who are care experienced tend to leave home at a much earlier age than their peers, and generally experience poorer outcomes in relation to housing. It is, therefore, recommended that a stable and secure home with adequate support is necessary for the wellbeing of these young people.

Applicants who are assessed as ready for their own tenancy should be referred to the Rehousing Panel for an award of priority (See page 46).

Foster carers and kinship carers who are approved, or who are in the process of being approved, may be entitled to apply for an extra bedroom to provide care for a child over and above that of the usual occupancy levels. This aligns with the Council's Corporate Parenting responsibility.

4.7 Under Occupation Transfer Incentives

East Lothian Council aim to make best use of its housing stock. We encourage council house tenants to free up larger properties that are underoccupied, for example, a bedroom may no longer be used as children have left home. Incentives, including grants, are available for those moving to a smaller property.

The level of grant payment will be set by the Council's Cabinet and regularly reviewed. The grant is part of a package of incentives to meet the needs of tenants and ensure best use of housing stock.

The allocations policy also awards tenants of social housing in East Lothian priority points per bedroom being downsized.

4.8 Heritable Property (Home/Land Ownership)

Before the introduction of the new Housing (Scotland) Act 2014, landlords were unable to take home ownership into consideration when allocating social housing. This has now changed and landlords can take into account whether the applicant is, or has been, a home owner - this also applies to any funds that are the proceeds from a property that has been sold by the applicant or a person who will live with the applicant. Also taken into account is ownership of any land, or buildings on that land, either currently or previously owned in Scotland, the rest of the UK or abroad. This applies to existing tenants looking to transfer as well as new applicants.

Property ownership will be disregarded when:

- The property owned is not let but the owner cannot access the property, for example, when the property is uninhabitable, or they cannot access it due to illegal occupation without any lease being in place
- Where continued occupation of the property would lead to abuse
- Where continued occupation of the property could damage the applicant's health and no steps can be taken to avoid this

4.9 Tenancy Fraud

Tenancy fraud presents a significant challenge to providers of social housing and preventing fraudulent misuse of housing stock is a priority for all local authorities as social housing is a limited resource for which there is great demand.

Housing providers, such as East Lothian Council, have lengthy housing lists and a duty to help certain reasonable preference groups covered by legislation i.e. those that are homeless or threatened with homelessness.

Tenancy fraud prevents landlords from offering suitable accommodation to those in most need. Recovering a property lost to tenancy fraud means it can be re-let to another household who is genuinely in housing need.

What do we mean by tenancy fraud?

Tenancy fraud can be broadly defined as the deliberate use of deception or dishonesty to disadvantage or cause loss to another person or party. It occurs when a council property is occupied by someone who is either not legally entitled to be there or has obtained use of the property fraudulently.

Tenancy fraud causes significant social harm and can lead to antisocial behaviour. It deprives legitimate applicants in housing need access to affordable homes and has a direct impact on local people, their families and their communities.

Failure to act on tenancy fraud impacts on the Council in the following areas:

- Inability to make best use of stock
- Increased use of temporary accommodation
- Increase in properties used for illegal activities
- Reduced ability to tackle homelessness
- Risk of damage due to lack of access for repairs/inspection
- Reputational damage to both tenants living in social housing and the Council

Some examples of tenancy fraud include: -

Application or allocation fraud: Obtaining housing by deception - this happens when a person gets a council home by giving false or misleading information in their application form or providing false documentation to support their application. For example, not telling the truth about who is, and is not, part of their household or not being honest about their housing circumstances when they may become homeless.

- **Subletting fraud:** A tenant rents out all or part of their property on a short or long term basis to someone else for private rental rates without the knowledge or permission of the landlord.
- **Succession fraud:** A person moves into a property when the legal tenant either dies or moves away, and that person does not have the right to move in.
- **Abandonment:** When a tenant does not use the property as their principal home but lives elsewhere, thereby depriving someone who needs social housing of the benefits of the property.

Most people applying for housing wait their turn to be allocated a home.

Housing cheats don't wait, they jump the queue. It's not fair.

They use up valuable housing spaces which deprive those in greater need.

Preventative Measures - Acknowledge, Prevent & Detect

The most effective measure against tackling tenancy fraud is to prevent it from occurring in the first place. As part of our drive to prevent tenancy fraud (and also to support applicants for our housing); we will undertake a number of checks at the application, sign-up & settling-in stages to establish proof of identify & residency of all members of the household - this may include face to face interviews. Other measures could include: -

- Regular tenancy audits - annual visits to a percentage of tenancies
- Photographs of tenants linked to their tenancy agreement. These can be checked by visiting officers prior to a visit
- Visit properties; including at unsocial hours
- Whistleblowing policy to encourage 'tip offs' and involve the community
- Forms made available to report fraud
- Freephone number
- Tenancy fraud amnesty periods (where no action will be taken)
- Web page outlining what tenancy fraud is and support for reporting
- Social media campaigns
- Articles in Homefront highlighting ongoing campaigns
- Staff awareness training - regular training would be required to ensure that there is a consistent approach and staff feel supported to carry out these roles
- Data matching exercises to highlight potential fraud cases

We aim to achieve this by preventing and detecting fraud and taking effective action. When tenancy fraud is identified, East Lothian Council will take action to end the fraudulent activity and recover the property. We will share information regarding the fraudulent activity with other departments and agencies. We will do this in line with our legal obligations in respect of GDPR and the consent given by all applicants for housing managed by East Lothian Council as a part of the application process.

4.10 Armed Forces Community Covenant

East Lothian Council signed an Armed Forces Community Covenant in 2013 with the aim of ensuring that Service personnel, their families and exService personnel are not, in any way, disadvantaged in the provision of their

entitlements and support from statutory services due to the transient nature of their military employment.

As part of this Covenant all parties are encouraged to work together to deliver six key objectives in support of Service personnel, their families and ex-Service personnel in East Lothian. The following objective relates to housing allocations:-

Objective 3: Housing

Develop clear direction and guidance within the Local Authority and the Armed Forces as to what levels of service provision can be expected and what is required of the military community to enable them.

Further information on the priority given to members of the Armed Forces is given in Section 5.

It is the intention of East Lothian Council to work towards providing dedicated housing for ex-Service personnel in East Lothian.

Section 5: Needs Factors and How Points Are Awarded

The points table can be found at Appendix 4.

5.1 Definition of Housing Need

This policy is concerned mainly with addressing a range of housing needs. It is, therefore, important to explain what we mean by the term “housing need”. This is essential too, for understanding how we set targets and prioritise among different needs.

In this policy, housing need is defined in relation to:

- legal standards such as standards concerning homelessness and unsatisfactory housing conditions
- local professional standards such as our occupancy standard that we use to determine living space required by individual households
- social standards that take account of applicants’ preferences and choice, for example, applicants who want to live near relatives

5.2 Housing Needs Assessment

Housing need, as defined above, covers both physical standards and social and environmental issues. Housing need is subject to development as standards evolve.

East Lothian Council will ask for evidence to verify the circumstances of the applicant before points are awarded and each case will be assessed individually.

Following assessment, any applicants who are considered as having no housing need (as defined by the policy) will not be eligible for an offer of housing.

5.3 Homelessness Prevention & Housing Options Advice

Section 2 of the Housing (Scotland) Act 2001 sets out a duty for local authorities to provide advice and information on homelessness and the prevention of homelessness free of charge to any person in their area.

The prevention of homelessness can be viewed as providing Housing Options advice together with a comprehensive range of information relating to a potential housing solution for people already living or working in East Lothian or for those who wish to do so. Helping people to retain their accommodation is vital in preventing the stress of upheaval to individuals and families.

The process begins when someone approaches the Council with a housing problem and will involve looking at an individual's options and choices in the widest sense. The advice can also cover personal circumstances which may not necessarily be housing related, such as debt advice, mediation and health issues. The Council will work closely with the applicant and other services to assist with these issues from an early stage in the hope of avoiding a housing crisis, such as becoming homeless.

As part of a Housing Options approach tailored for each individual, Housing Options Officers will discuss the relevant housing options available should the current housing situation breakdown - this may include social housing and other tenures such as private rented housing, low cost home ownership etc.

5.4 Elements of Housing Need

The Groups Plus Points system involves the use of separate groups to meet specific housing needs. When a property becomes available, it is automatically placed against one of the four groups - in accordance with the agreed allocation targets or by the nature of the property itself, for example, sheltered housing. For Transfers, General Needs and Specialist/Adapted properties an offer of housing will be made to the applicant with the most points. For Sustainable Communities other rules apply (See Section 7).

Each housing needs factor is explained further within the following groups: -

- Transfer
- General Needs
- Specialist/Adapted Property

East Lothian Council will verify the applicant's circumstances and each applicable element of housing need will be assessed on a case by case basis.

5.5.1 Transfer Applications

- Unsatisfactory housing conditions AND who have unmet housing needs
 - Health Needs
 - Social Need
 - Two Tenancies for One
 - Overcrowding
 - Tenemental Flat or Shared Stair
- Homeless persons & persons threatened with homelessness AND who have unmet housing needs
 - Domestic Abuse
 - Harassment
- Social housing tenants in East Lothian who are under occupying their tenancy
 - Housing Supply Points

5.5.2 General Needs Housing Applications

- Unsatisfactory housing conditions And who have unmet housing needs
 - Health Needs
 - Social Need
 - Key Worker
 - Two Tenancies for One
 - Shared Amenities
 - Housing Supply Points (tenants of a registered social landlord only)
 - Overcrowding
- Homeless persons & persons threatened with homelessness AND who have unmet housing needs
 - Domestic Abuse
 - Harassment
- Social housing tenants in East Lothian who are under occupying their tenancy
 - Housing Supply Points

5.5.3 Specialist/Adapted Property

- Unsatisfactory housing conditions And who have unmet housing needs
 - Health Needs
 - Social Need
 - Key Worker
 - Two Tenancies for One
 - Shared Amenities
 - Housing Supply Points (tenants of a registered social landlord only)
 - Overcrowding

- Homeless persons & persons threatened with homelessness AND who have unmet housing needs
 - Domestic Abuse
 - Harassment
- Social housing tenants in East Lothian who are under occupying their tenancy
 - Housing Supply Points

Summary Table - (please see need factor definition for further information)

Needs Factors	Groups	Transfer	General Needs	Specialist Property
<input type="checkbox"/> People who are living under unsatisfactory housing conditions AND who have unmet housing needs	Health Needs			
	<input type="checkbox"/> Cat. A	✓	✓	✓
	<input type="checkbox"/> Cat. B	✓	✓	✓
	<input type="checkbox"/> Cat. C	✓	✓	✓
	Social Need	✓	✓	✓
	Keyworker		✓	✓
	Two Tenancies for One	✓	✓	✓
	Shared Amenities	✓	✓	✓
	Loss of Tied Tenancy		✓	✓
	Loss of Service Tenancy - Armed Forces		✓	✓
	Overcrowding (per bedroom short)	✓	✓	✓
	Closing Order	✓	✓	✓
	Tenemental Flat or Shared Stair	✓		
	Insecurity of Tenure (private tenancies created prior to December 2017)			✓

<input type="checkbox"/> Social housing tenants who are under occupying their tenancy	Housing Supply (transfer & RSL tenants only)	✓	✓	✓
<input type="checkbox"/> Homeless persons & persons threatened with homelessness AND who have unmet housing needs	Those accepted for re-housing under homelessness legislation		✓	✓

5.6 About Unsatisfactory Housing Conditions

What makes housing unsatisfactory may depend on the circumstances of the applicant. It may relate to the physical layout of the property which makes it unsuitable for their health needs; or the applicant may experience unsatisfactory living arrangements such as overcrowding.

5.6.1 Health Needs

Unsatisfactory housing has an impact on an applicant's health and well being. East Lothian Council uses a self-assessment process to determine priority based on health needs and unsatisfactory housing conditions, known as a Health & Housing Assessment. This assessment allows the applicant to tell us more about their health and housing problem and how it affects the way they live at home. It will also help applicants to tell us why they think re-housing would make a difference to their health and wellbeing. Further information is available in the Health & Housing leaflet available from the Council's website www.eastlothian.gov.uk or the Health & Housing Panel procedures in Section 8.13.

- We ask the applicant to provide information from a health care professional to support their application.
- We may arrange a home visit by a member of the Community Care Team to assess whether aids and adaptations can be made to the existing property.

The Health & Housing Panel will award a priority based on the information provided. There is an appeal process should you disagree with the priority awarded and have further supporting evidence to submit to the Panel.

The priority awards are: -

Category A	80 points
Category B	50 points
Category C	6 points

Where applicants are awarded a category A health priority, their case can be referred to the Re-housing Panel for consideration for a further priority award. (See Re-housing Panel procedure in Section 8.12).

5.6.2 Social Need 300 points

Social priority is awarded where it is recognised that an applicant has an urgent need to be re-housed, but that they do not have sufficient housing needs points to be offered alternative housing e.g. extreme medical need.

The decision to award social points is made by the Re-housing Panel.

5.6.3 Key Worker 80 points

Applicants currently living outwith the area who qualify for points in this category will have secured permanent employment in East Lothian and will be bringing a trade, skill or professional knowledge into the area that is not available locally. Proof of the skills shortage will be established with Jobcentre Plus. The applicant must provide written confirmation of the nature of their employment, including the location and start date. The acceptable distance travelled to work, in terms of mileage, is also a consideration. After checking this information, the Re-housing Panel will confirm whether a points award may be made.

5.6.4 Two Tenancies For One 80 points

Points are awarded in this category when an applicant, who is an existing East Lothian Council tenant, wishes to be housed with another East Lothian Council or Housing Association tenant living in East Lothian. An application should be submitted (if not already in existence) detailing the circumstances of both parties. All parties must normally live in East Lothian, and when the new tenancy is created, it will be in joint names. Points will be awarded once the circumstances of the applicants have been checked by us. Once an offer of housing has been made and accepted, both parties end their existing tenancies in favour of the offered new joint tenancy.

5.6.5 Shared Amenities 8 points

Sharing amenities points are awarded to applicants who share a kitchen and/or a bathroom with a person or family they do not wish to be re-housed

with. This is provided the applicant is not the owner nor the tenant of the property, for example, a person who lives with parents in the family home or someone who lives with friends or relatives would qualify for sharing amenities points. This criteria will also apply for owners and tenants who share amenities and due to a relationship breakdown neither party can remain in the property.

5.6.6 Overcrowding

This needs factor covers overcrowding, which is part of the Unsatisfactory Housing Conditions reasonable preference group.

Living with overcrowding impacts in different ways depending upon the circumstances of the household, for example, age, gender, size of bedroom, number of bedrooms and property type. East Lothian Council recognises the variety of ways being overcrowded can affect households and award varying levels of priority accordingly.

Overcrowding points are given for every extra bedroom that the applicant requires based on the occupancy levels set out below. Points are calculated based on the number of bedrooms that the applicant currently has for their own use, against the number of bedrooms that they require in accordance with the occupancy levels set out by the Council (page 15).

Four points are awarded for every extra bedroom the applicant requires, for example, one bedroom short equals four points and two bedrooms short equals eight points. **4 points**

The exception to this is when there are two children of different sex sharing a room, one of whom is aged ten years or over - in these circumstances the applicant would be awarded eight points. **8 points**

Where a bedroom is considered to be a single room (the room/space standards outlined in the Housing (Scotland) Act 1987 refers) and it is being shared by more than one person, an additional award of priority can be applied. This will be considered on a case by case basis. **4 points**

Should the applicant experience extreme overcrowding, this means being two or more bedrooms short, they may wish to contact their local housing office and apply to the Re-housing Panel for consideration of a points award. See Section 8.12 Re-housing Panel procedures for further information.

Definition of a child

A person is considered a child if they are aged 16 or under and still at school; or up to the age of 18 if they are in full time education.

A person aged 16/17 and has left school, who may or may not be working, is considered an adult.

Foster & Kinship Carers

Foster carers and kinship carers who are approved, or who are in the process of being approved, may be entitled to apply for an extra bedroom to provide care for a child over and above that of the usual occupancy levels. This aligns with the Council's Corporate Parenting responsibility.

5.7 About Insecurity of Tenure

If you rent from a private landlord you have different rights in law to those renting from a council or housing association. Renting from a private landlord can give tenants less security, as the landlord can take action to end the tenancy and recover the property, for example, if he needs it for his/her own use.

The type of Notice to Quit/Leave that can be served depends on which type of lease agreement the tenant has. East Lothian Council provides information and advice on a range of housing options for those who may be homeless or threatened with homelessness.

5.7.1 Insecurity of Tenure (private rented sector) 8 points

Applicants who **do have** a private residential tenancy will not be entitled to insecurity points during the period of their tenancy as this type of tenancy agreement offers the tenant a greater level of security of tenure.

The Council recognise the insecurity of tenure applicants in the private rented sector who **do not** have a private residential tenancy may experience - they may be served Notice to leave their tenancy by their landlord. Note: all tenancies that started after 1st December 2017 will be private residential tenancies.

Applicants in the private sector who have an earlier form of tenancy agreement (issued prior to 1st December 2017) will receive eight points to reflect this insecurity.

5.7.2 Loss of Tied Tenancy 40 points

An applicant will qualify for tied priority in the following circumstances.

- Retirement
- Ill Health
- Redundancy

- The tied tenant has died and the surviving partner has no rights to remain

In order to qualify for these points an applicant must provide proof from their employer confirming the status of the tenancy, the reasons that the tenancy is coming to an end, and the date by which the applicant must vacate the property. The Council will investigate the circumstances and each case will be assessed individually.

5.7.3 Loss of Service Tenancy - Armed Forces

4 points per year to a maximum of 40 points

The applicant must provide a Certificate of Cessation of Entitlement to Occupy Service Accommodation, the reasons that is the tenancy is coming to an end, and the date by which the applicant must vacate the property. On satisfactory assessment of this information, the application will be activated and be awarded needs points for each completed year of service.

The following rules also apply:

- upon receipt of an application from Service personnel, East Lothian Council will take a flexible approach in relation to local connection
- applications for housing will become active no earlier than 6 months before the applicant is discharged from HM Forces.
- in the case of Service personnel leaving the Forces because of injury or disability and who may require housing specifically adapted for their needs. Such applicants should also apply to the Council's Health & Housing Panel for further consideration Section 8.13 refers.

If an applicant does not receive an offer of housing in the six months prior to leaving their employer's accommodation and has to move into accommodation where they are living 'care of', they will still be entitled to points from the date they took up their employer's accommodation and, in addition, any points due in relation to their new address.

Service applicants who have access to other accommodation, which is suitable and adequate for their household, as defined under the terms of this policy, will be treated as general housing list applicants and their circumstances will be assessed as if they were living in that accommodation. For example, suitable and adequate accommodation includes, but is not restricted to:

- An assured tenancy
- A private residential tenancy
- A secure tenancy with another local authority
- A property owned by the applicant and/or his partner

The rules in this section will also apply to a surviving partner who confirms that she/he has to leave tied accommodation because of a partner's death.

5.8 About a Closing Order

80 points

This needs factor looks to award priority to those that occupy housing that is below tolerable standard; this standard is set out in Section 86 of the Housing (Scotland) Act 1987 as amended. A house meets the tolerable standard for the purposes of the Act if the house -

- is structurally stable
- is substantially free from rising or penetrating damp
- has satisfactory provision for natural and artificial light, for ventilation and for heating and has satisfactory thermal insulation
- has an adequate piped supply of wholesome water within the house
- has a sink provided with a satisfactory supply of both hot and cold water within the house
- has a fixed bath or shower and a wash-hand basin, each provided with a satisfactory supply of both hot and cold water and suitably located within the house, or waterless closet
- has a water closet available for the exclusive use of the occupants of the house suitably located within the house
- has an effective system for the drainage and disposal of foul and surface water; in the case of a house having a supply of electricity, complies with the relative requirements in relation to the electrical installation for the purposes of that supply. The electrical installation is the electrical wiring and associated components and fittings, but excludes equipment and appliances, the relevant requirements are that the electrical installation is adequate and safe to use
- has satisfactory facilities for the cooking of food within the house
- has satisfactory access to all external doors and outbuildings

Points are awarded when the property in which the applicant lives is lacking in certain facilities such as bathroom or hot water.

These properties will be inspected on request by our Environmental Health Department. They will determine what repairs are needed to bring the property up to an acceptable standard. They will be responsible for notifying the Landlord concerned and making sure that the repairs are carried out. Improvement and Repair Orders/Notices may be served upon the Landlord. In this situation no points will be awarded to the applicant.

Some properties, however, may be deemed to be below tolerable standard, in which case the Environmental Health officer will serve a Closing Order. This will be confirmed in writing to the Community Housing Department and points will then be added to the housing application.

5.9 Social Housing Tenants who are under occupying their tenancy

The Housing (Scotland) Act 2014 introduces ‘Tenants of houses which are held by a social landlord, which the social landlord selecting its tenants considers to be under-occupied’ as a reasonable preference group. Social landlords want to make best use of their available housing stock and giving priority to social housing tenants who are under-occupying their home is one way of doing this.

5.10 Housing Supply Points 20 points per under-occupied bedroom

These points are awarded to tenants of East Lothian Council, or tenants of other Housing Associations who have houses in East Lothian, who presently live in housing which is too large for their needs. For each bedroom that is not being used by the tenant, twenty under occupation points will be awarded per bedroom. For example, one unused bedroom would equal twenty points, and two unused bedrooms would equal forty points.

The household size must fit with the occupancy levels as set out in our core allocations policy and must not result in overcrowding.

East Lothian Council tenants who are downsizing may be eligible for further financial incentives when freeing up larger properties. This allows us to meet one of our key policy objectives in housing allocations, making best use of the social housing stock in East Lothian.

5.11 Homeless Persons & Persons threatened with Homelessness AND who have unmet housing needs 200 points

All unintentionally homeless households are entitled to settled accommodation.

All applicants accepted for re-housing under homelessness legislation will be awarded the same level of priority points and ordered by the date of their homelessness application. Each application will be assessed on a case by case basis.

If you feel that you cannot remain safely in your home, for example, you could have received a Notice to Leave from your landlord, be experiencing domestic abuse or harassment etc., then advice and assistance is available from the Council’s Housing Options Team - for further information telephone freephone **0800 169 1611**.

5.12 Tenemental Property or Property with a Shared Stair

Council tenants living in a tenemental property or a flat with a shared stairway will be awarded an additional priority to allow them to move to another property type should they wish to do so.

Council tenants in tenemental flats or with a shared stair who have children aged five and under. **4 points**

All other Council tenants in a tenemental flat or with a shared stair.

3 points Section 6: Specialist Property

Housing need is not limited to the above factors alone; applicants may have a need for particular house types or specialist properties.

Specific houses are designed or adapted to meet particular housing needs. These include houses for people of a certain age, or houses designed and/or adapted to meet particular needs. For example, houses to meet the needs of disabled people.

We provide information to all applicants of those properties to which this rule applies.

- Sheltered Housing
- Amenity Housing
- Gypsies and Travellers
- Adapted/Adaptable and Property suitable for Ambulant Disabled

6.1 Sheltered & Amenity Housing

6.1.1 Aims for Sheltered and Amenity Housing

- To meet the housing needs of applicants to East Lothian Council's housing list for sheltered and amenity housing
- Providing high quality housing accommodation, housing support and community services for older people where appropriate
- Ensuring the best possible use of this type of accommodation
- Supporting independent living

6.1.2 Admission to the Sheltered Housing List

People who are aged 60¹ or over can apply for sheltered housing. In the case of a couple, one partner must be aged 60 or over. Exceptions may be made where a person under the age of 60 would benefit from the features of the

¹ Section 20 (A) of the 1987 Act as inserted by Section 10 (4) of the Housing (Scotland) Act

accommodation or those who have a need for particular support services. Such exemptions are made at the discretion of East Lothian Council.

6.1.3 Admission to the Amenity Housing list

People who are aged 60 or over can apply for amenity housing. In the case of a couple, one partner must be aged 60 or over. Exceptions may be made where a person under the age of 60 would benefit from the features of the accommodation and there is no demand for a particular scheme or house

2001

type within a scheme. Such exemptions are made at the discretion of East Lothian Council.

6.1.4 Housing Options for Older People

Not all applicants who meet the criteria for sheltered or amenity housing wish to be considered for this type of property. Sheltered or amenity housing is only one of the housing options open to older people. You may also wish to be considered for general needs housing or other types of specialist property.

Applicants entitled to admission to the list for sheltered and/or amenity housing are aged 60 years or over.

Applicants who do not meet the criteria above may still apply for housing, they will not however be allocated sheltered or amenity housing.

6.1.5 About Sheltered & Amenity Housing

Sheltered housing consists of a 1 or 2 bedroomed, ground or first floor property. Where properties are over two stories high, there will be a lift for the use of the tenants. Sheltered housing, as well as being designed to meet the particular needs of older people, has staff support for tenants available during the day - during working hours, and normally, communal facilities where you can meet neighbours. A community alarm system is installed.

Housing support provided by staff in Sheltered Housing is regulated under the Regulation of Care (Scotland) Act 2001 by the Scottish Commission for the Regulation of Care.

Amenity housing is groups or schemes of accessible 1 or 2 bedroomed properties. The design is based on the standards of the Council's general housing stock but will include some or all of the following features - lowered light switches, raised sockets, low radiant heat covers and/or a community

alarm system. There is no warden on site to provide support to tenants, as this is a feature of sheltered housing only.

Aids and adaptations that may be required are assessed separately to meet the needs of the individual. Please refer to the Health & Housing in Section 8.13.

East Lothian Council reserves the right to return amenity housing to general needs use. Similarly, we also reserve the right to convert general needs property to amenity housing.

Both sheltered and amenity housing aligns with our Older Persons Strategy.

6.1.6. How We Allocate Sheltered and Amenity Housing.

If you wish to be considered for sheltered and/or amenity housing, we will take into account your personal needs as well as housing need, for example, if you need help with bathing. Where applicable, we will also ask our Health & Housing Panel and Social Work Service to provide reports to help in selecting those applicants who will most benefit from the support and housing available.

Applicants who have high care needs will be considered for an offer of housing if their existing needs are supported or that the social work service agrees to put a care package in place to meet these needs. The impact that such an allocation may have on the health and welfare of existing tenants will be considered as part of the allocation assessment

To be considered for sheltered and/or amenity housing, your current accommodation should be unsuitable for your needs because of its location. For example - its distance from shops or public transport, or its inability to be adapted to suit your needs. Applicants should be able to live independently and may or may not have support needs, for example, older people and disabled people with access requirements.

When we allocate sheltered and amenity housing we will look at: -

- Points for housing circumstances
- Points for personal factors such as health needs, where appropriate.

Points are awarded for housing circumstances and personal factors such as health needs in order to allow the relative priority of different applicants to be decided for sheltered or amenity housing. Where two applicants have similar points levels, the date of application will determine priority.

6.2 Gypsies and Travellers

East Lothian Council, in conjunction with Midlothian Council, operates a 20 pitch site for Gypsies/Travellers. The site is managed by East Lothian Council

on behalf of both Authorities. There is a separate Pitch Allocations Policy which is available at www.eastlothian.gov.uk or from our Housing Offices.

6.3 Adapted Property

Where a property has been adapted to meet the particular needs of a tenant - rather than remove these adaptations should the next tenant not require them - East Lothian Council will allocate the property to someone who has a need for those adaptations. In doing so, this allows the Council to make the best use of its housing stock and meet the particular needs of applicants.

East Lothian Council, for the purpose of this Policy, defines adapted property as having a ground floor bedroom and bathroom and one or more of the following adaptations:-

- Level access shower
- Ramped access
- Stairlift
- Fully adapted and accessible kitchen
- Any other significant adaptation costing more than £4,000

However, if there is no demand for this type of adapted property, the Council reserves the right to return it to general needs use. Similarly, the Council reserves the right to convert general needs property to specialist property when there is a level of demand to do so.

6.4 Adaptable Property

Adaptable property will be recorded as part of East Lothian Council's Void Process. The property will be identified as appropriate for adaptation by the Community Housing Officer, Contracts Officer (Voids & Improvements) and Occupational Therapist (Housing) through the voids process and will have the following attributes.

- Ground floor bedroom and bathroom

6.5 Property suitable for the Ambulant Disabled

Property suitable for the ambulant disabled will also be recorded as part of East Lothian Council's Void Process.

- It does not meet the criteria of an adapted or adaptable property And
- It has a ground floor bedroom and bathroom And
- It is not ramped or rampable but is suitable for ambulant access for example: has 3 or less steps which are suitably graded and is not in a location that would restrict access e.g. on a hill.

6.6 The Allocation of Ground Floor Property

To enable the Council to meet the needs of applicants with a requirement for a particular house type i.e. ground floor housing due to assessed health/mobility needs, all suitable ground floor property will be offered in the first instance to those with a requirement for ground floor housing. These property types include those that are designated as *Adapted*, *Adaptable* and property suitable for the *Ambulant Disabled*.

However, if there is no demand for this type of property, the Council reserves the right to return it to general needs use.

Section 7: Sustainable Communities

By Sustainable Communities we mean places where people want to live and work, now and in the future. Communities that meet the diverse needs of existing and future residents, are sensitive to their environment, and contribute to a higher quality of life.

The Sustainable Communities group recognises that in order to achieve a balanced community applicants with lower housing needs should be considered for social housing. Therefore, applicants offered housing from this group may not have high housing needs but will meet the criteria developed in a **local lettings plan**. All applicants that meet the local lettings plan criteria will be selected and the applicant with the **earliest date of application** will be made an offer of housing.

East Lothian Council's Cabinet sets percentage allocation targets for the Sustainable Communities group and lettings plans on an annual basis and this lettings plan will operate within those targets.

7.1 Local Lettings Plans

Our allocation policy promotes the introduction of local letting initiatives in order to meet the following objectives:

- delivering good quality, sustainable and affordable housing
- regenerating our communities
- building safer communities by tackling anti-social behaviour
- tackling poverty and helping vulnerable people
- promoting equal opportunities and active citizenship

Bespoke lettings plans will be used to allocate new build developments on their initial allocation but not as part of the sustainable communities group and therefore outwith the allocations targets as set.

A lettings plan operates alongside our needs-based allocation policy but allocates vacancies according to the particular circumstances of the area by

letting to a household that will contribute to the sustainability of that community. The need for a local lettings plan will be agreed upon by local tenants & residents groups, community housing staff and elected members.

A lettings plan may be required where there are issues that have occurred within an established community, and action is required to assist that community to become sustainable, for example, there may be a need to lower child density in the area, therefore, future allocations will consider household composition as an attribute.

All applications that contain the selected attributes will be placed in date order and the applicant with the earliest date of application would receive an offer of housing.

7.2 Local Lettings Plan Attributes

It may be considered that one or more of the following attributes are contained within a lettings plan and are necessary to sustain and balance a community. (An attribute is a particular characteristic or feature of the applicant's household. For example, whether there are children included in the application or the type of accommodation the applicant currently occupies.)

□ Employment

- Student for at least 6 months
- Employment for at least 6 months
- Self employed for at least 6 months

- **First Time Householder** ○ Living with family for 6 months/not overcrowded

- **Tenure** for example ○ Private rented sector ○ Sub tenant ○ RSL tenant
 - Council/other

- **Household Composition** ○ Single person ○ Single parent with children ○ Couple - no children ○ Couple with children

□ Age

- 16 - 17
- 18 - 24
- 25
- 60 - 64
- 65 - 69
- 70+

Social Connection ○ Live
currently in the area ○ Close
relative in area

Anti-social Behaviour **No**

7.3 **How Lettings Plans Work**

A property becomes available that is identified as being part of an approved local lettings plan. The applicant with the **earliest date of application**, that meets the attributes as defined within the local lettings plan for that property, will be made an offer of housing.

Section 8: How We Administer Housing Applications

East Lothian is an attractive place to live and demand for housing is high. The Council's website also contains our [Housing Options Guide](#) that offers important advice to those who live in or who are considering a move to the area (available at www.eastlothian.gov.uk). It covers the housing options available in East Lothian, in both the public and private housing sectors, for example, details of home ownership, shared ownership, the private rented sector and housing associations.

This section explains how we process applications. We have also established allocation procedures for internal use by housing staff. This section covers:

- admission to the housing list
- prevention of homelessness
- checking application details
- areas of choice
- change of circumstances
- information sharing
- joint tenancies
- offers and refusals
- suspensions and deferred applications
- review of the housing list and cancellations
- re-housing panel
- health & housing panel
- referrals to housing associations

8.1 Admission to the Housing List

All applicants or their representatives should complete a Housing Application Form; this can be done in the following ways:

- by requesting the form from any of the council's public offices
- by requesting a form from our website
- by appointment at the applicant's home where appropriate

If the applicant requires assistance in completing the form, this is provided together with advice on re-housing options. This information covers all housing providers in the area, including opportunities offered through shared ownership.

All applicants **must** provide proof of identification, for example, driving license, passport, birth certificate etc. when applying for housing. They **must** also prove residency for those named on their application, for example, with a utility bill, bank statement etc. In both instances these should be original documents (which can be copied and verified at council offices and returned).

Only on receipt of all required information, will we process an application for housing - we will do this within **fourteen** days.

Application forms and further information on the evidence requirements are available at all of our council offices; information on how to request an application form is available on our website at www.eastlothian.gov.uk

The application form can be provided in different languages, on request, as well as in other formats such as in large print.

Interpreting services are also available on request, for example, services for hearing impaired people or from black and minority ethnic applicants. We provide these services freely.

Note

In order to promote our equality objectives, we request information about applicant's individual accessibility needs to tailor services to their requirements. For instance, this enables us to provide information in an appropriate format, such as forms and leaflets being provided in large print and other languages.

8.2 Prevention of Homelessness

Homelessness prevention aims to stop situations of urgent housing need from arising in the first place. In general this refers both to far-reaching structural provisions (e.g. which increase the supply of social rented housing or which increase security of tenure) as well as other interventions into individual circumstances which make it considerably less likely that an occupant would lose their home during difficult economic or personal times (e.g. tenancy sustainment services or defending possession proceedings).

Schemes which help people to find alternative housing before urgent situations arise also play an important role in helping to prevent homelessness. We will make sure that, where possible, there are appropriate housing advice and information resources, tenancy support, risk assessment mechanisms and schemes in place to prevent homelessness occurring. Please contact our Housing Options Team for further information on **freephone 0800 169 1611**.

8.3 Checking Application Details

It is the applicant's responsibility to provide up-to-date and accurate information regarding their circumstances. We will check information provided by the applicant, initially at the application stage and again prior to an offer of housing being made. This aligns with good practice guidance so that offers to applicants are appropriate. For example, we check that

application details reflect actual housing circumstances so that points are awarded accurately.

We ask that applicants contact us if they are unsure of what to include in their application; this assists them to include only appropriate details. Should an applicant knowingly provide false and misleading information, the Council will take the appropriate action to suspend their housing application and in certain circumstances this act is a criminal offence. The applicant can appeal this decision and should refer to the Council's Suspension and Deferment Policy. Should this information have resulted in an offer of housing being made and accepted, the Council will take legal action to recover the property.

8.4 Areas of Choice & Property Types

There are no restrictions placed on the minimum number of areas an applicant can select. In addition, an applicant can also choose as many towns/villages as they wish.

However, applicants who have been accepted for rehousing under homelessness legislation and who have not received an offer of housing within 6 months of acceptance, will be required to meet with their Housing Options Officer to review their application where existing areas and house types are not realistic.

This will result in a mandatory widening of areas of choice (to include a main town), property size (in accordance with existing occupancy levels) and include all property types (unless there is a relevant health assessment to indicate otherwise) to enable an offer of housing being made. This is to allow the Council to meet its statutory obligations.

8.5 Change of Circumstances

It is the applicants' responsibility to advise us of a change in their circumstances as soon as possible. Applicants who wish to alter their housing requirements can do so by completing a 'change of choice' form, which is available from any of our local offices.

8.6 Information Sharing

We process personal information supplied by applicants in accordance with legal provisions set out in the General Data Protection Regulation ('GDPR'), Data Protection Act 2018 ('DPA 2018') and other data protection legislation. East Lothian Council are working towards Single Shared Assessment.

Sharing of information may include seeking references from previous landlords or lenders to confirm application details. For example, we may seek information on whether a previous tenancy complied with conditions of let. We do not, however, seek personal references

Sharing of information is only done if (a) applicants consent in writing or (b) if this is allowed in law (as per GDPR legislation).

All applicants must complete and submit the housing application form. Where appropriate, the applicant must be made fully aware of any referral and consent to sharing of information between social work and housing agencies. The exception to this is where someone is appointed as legal guardian or where an interim order has been sought using Adult with Incapacity procedures - the person referring will then be required to produce legal documentation evidencing their authority to take decisions on behalf of the adult.

If permission to share information is refused by the applicant, then it must be explained that as points are awarded on assessed need, then failure to share information will result in a lower points level and limit our ability to offer housing to the applicant.

8.7 Joint Tenancies

We advise all applicants of their right to apply for a joint tenancy with a person either staying or intending to reside with them. From the 1st November 2019, requests from a tenant to add a joint tenant will only be allowed once the proposed tenant has been living in the house for 12 months and the landlord has been made aware that they were living there at the outset of that 12 month period.

We may refuse such applications but only if it reasonable to do so. We have a procedure for processing joint tenancy applications.

We also provide applicants with information about the rights and responsibilities attached to having a joint tenancy. This enables them to make an appropriate decision.

8.8 Allocations & Offers

We will try to match empty houses to applicants as quickly as possible. We will give a copy of our Lettings Commitment to all prospective tenants.

We will deliver all offers to applicants currently living in East Lothian by hand. We will send offers to applicants living outside East Lothian by Royal Mail

Special Delivery. Applicants must respond to an offer within a reasonable time, and no later than three days from date the offer is delivered.

Applicants must accept or refuse an offer within two days of viewing the house. If applicants do not reply within this time, we will record this as a refusal.

Viewings

We will arrange accompanied viewings for all prospective tenants. We will inform the prospective tenant(s) about all the repairs to be carried out during the void period and post allocation.

Sign Up

We will ask tenants to a meeting at which they will sign their Tenancy Agreement. This allows us to:-

- get to know our new tenants
- make them fully aware of their rights and responsibilities
- offer advice and assistance

Tenancies may start on any day of the week, at the earliest possible date. We will agree this date in conjunction with the new tenant.

8.9 Offers and Refusals

We make offers to applicants based on (a) their housing needs and (b) their stated preferences - we will make two offers of housing.

After a **first offer** is refused, we will write to the applicant advising that we have made a *reasonable offer and to establish their reason for refusal

We will invite the applicant to come in and update their circumstances and take this into account before making a further offer. This is to reduce numbers of refusals and thus minimise lost income.

If an applicant refuses a **second** reasonable offer, no offers will be made for a period of **twelve months** and the application will be suspended

Homeless applicants will be made one reasonable offer of housing. Should the applicant refuse this offer of housing, the Council will be deemed to have met their statutory duty and therefore, any homeless priority will be removed. However, the applicant is still eligible to receive further nonpriority offers of housing. The applicant has a statutory right of appeal against this and should contact their Homelessness Officer for further information.

***East Lothian Council deem an offer as being reasonable if it is within the applicant's areas of choice, meets their specified property type and is appropriate for their family size and assessed health needs. A reasonable offer can also be made to the applicant from one of our Housing Association partners and will be counted as such by the Council. An applicant may appeal against any offer they feel is not reasonable - please see Section 10.**

8.10 Suspensions and Deferred Applications

We have established a suspension and deferment policy. This policy is available on request from any of our Council offices or on line at www.eastlothian.gov.uk Our policy aligns with Section 20B of the Housing (Scotland) Act 1987 and Section 6 of the Housing (Scotland) Act 2014.

The 2014 Act gives landlords the statutory right to suspend applicants from receiving an offer of housing from the point of application (depending on the circumstances) for a period of up to three years - there is a right to appeal this decision to the Sheriff Court.

We suspend applications only if one of the relevant grounds specified in legislation exists. For example: -

- the person has acted in an antisocial manner in relation to another person residing in, visiting or otherwise engaged in lawful activity in the locality of the house occupied by the person
- pursued a course of conduct amounting to harassment of such other person
- the applicant or someone who has lived with the applicant has been convicted of using a house for illegal purposes
- an offence punishable by imprisonment which was committed in or in the locality of, a house occupied by the person
- acted in an antisocial manner in relation to an employee of East Lothian Council in the course of making an application
- an applicant's previous social tenancy or joint tenancy has been repossessed when abandoned

We will also suspend an application after the **second refusal** of a reasonable offer of housing. This suspension will be for a period of **twelve months**. Applicants may appeal against suspensions in line with policy provisions. Please see Section 10 for information on our appeals process.

We may also suspend an application when there are rent arrears. When selecting tenants, we **may** disregard rent arrears under **one month's** rent. We do, however, make a reasonable repayment arrangement with applicants who are also council tenants.

In cases where rent arrears exceed **one month**, we disregard the arrears as long as applicants:

- make an appropriate repayment arrangement
- make payments agreed for at least **three months**, and
- continue to make payments

We will write to applicant(s) when we apply a suspension to advise them of the reason for suspension and to offer them the opportunity to appeal our decision. All suspended applications will be reviewed on a regular basis.

8.11 Review of the Housing List and Cancellations

8.11.1 Yearly Review

We undertake a yearly review of all applications on our housing list; the review date is based on date of registration.

This ensures that an accurate housing list is maintained.

We request applicants to inform us within **twenty eight days** if they want to stay on the housing list.

If applicants fail to respond, we send out a reminder allowing a further **fourteen day** period.

If applicants still fail to respond, we remove applications from the housing list. We obtain applicants' consent to do this on their application form.

8.11.2 Cancellations

Applications are also cancelled if the applicant (a) requests this, for example, because she or he no longer requires housing, for example, due to becoming adequately housed, or (b) if she or he has died.

Applications will also be cancelled when the applicant has received and accepted an offer of housing. The tenant may then re-apply to the housing list should they wish to do so.

Should an applicant knowingly provide false and misleading information, the Council will take the appropriate action to cancel or suspend their housing application. Where applicable, the Council may also instigate criminal proceedings. The applicant can appeal this decision and should refer to the Council's Suspension and Deferment Policy.

8.12 Re-Housing Panel Procedures

East Lothian Council set up the Re-housing Panel in 2003. We wanted to make sure that the way in which we award extra housing points to people with extreme housing problems is open and accountable.

The Panel is made up of representatives from East Lothian Council, NHS Lothian and the East Lothian Tenants and Residents Panel.

If the applicant has extreme housing problems and want the Panel to look into their case, they must talk to their Community Housing Officer. The Housing Officer will make a referral on the applicants' behalf to the Panel. The applicant will not need to attend the Panel meeting.

The Re-housing Core Panel deals with:

- management moves
- extreme overcrowding □ extreme medical
- care experienced children

- Management Moves

The Panel considers management moves when applicants have exceptional housing problems. These problems cannot be dealt with within our Allocations Policy. The Council will only consider a management move when it has already tried a range of solutions and re-housing is now the only option we can offer.

- Extreme Overcrowding

The Panel also considers cases where applicants are living in very overcrowded homes, for example, they need two or more bedrooms than they currently have and the overcrowding is affecting their health and wellbeing.

- Extreme Medical

This group usually deals with an applicant who has a Category 'A' Medical Priority and has extreme housing needs. It considers whether the applicant's home is still suitable for their needs. It will only consider a case when a range of solutions have been tried and re-housing is now the only choice the Council can offer.

The Re-housing Resettlement Panel deals with:

- are preparing to leave supported accommodation
- are preparing to leave long-term institutional care
- have been looked after by the Council and are preparing for their first tenancy.

This group considers whether the applicant will be able to manage being a tenant if they get some support from the Council or another agency.

- The Panel's decision

If an applicant's case meets its criteria, the Panel will recommend that they be awarded extra housing points. If it can make a decision immediately, the Panel will write to the applicant to let them know their decision within five working days. But, if further information is needed, it may take longer to make a decision. In all cases, the Panel will advise the applicant as soon as possible. All applicants have the right to appeal a decision by the Rehousing Panel following the Council's appeals procedure outlined in Section 10.

- Care Experienced Children

A stable and secure home with adequate support is essential to the wellbeing of young people both in and leaving care, as young people in care generally experience poorer outcomes in relation to housing. Also recommended is the provision of permanent accommodation and housing support to ensure suitable homes for young people in the Council's care.

Applicants who are leaving a young persons/supported/residential care placement and moving towards independent living should approach the Rehousing Panel for an assessment of their future housing and support needs and an award of priority.

8.13 Health & Housing Panel

The Health & Housing assessment process was introduced by the Council in 2005 and reviewed in 2019. It is a self assessment by the applicant of their health and housing needs. A new application form was introduced to assist the applicant to tell the Council more about their health and housing problems and how it affects the way that they live at home. It will also help the applicant to tell the Council why they think that re-housing would make a difference to their health and wellbeing.

Completed application forms are submitted to the local area offices for the attention of the appropriate Community Housing Officer.

The Health & Housing Panel meets on a monthly basis to consider these applications. The Panel consists of an Area Manager from Adult Social Care, a Community Housing Occupational Therapist, Community Housing Manager, Community Housing Officers and a Service Development Officer.

The applicant can also include information from a range of health care professionals to support their application, for example, information from their:

- hospital consultant
- health visitor
- occupational therapist
- district nurse
- community psychiatric nurse
- specialist nurse
- community care worker or social worker

If a healthcare worker is not treating the applicant, the community housing officer may, with the applicant's agreement, forward the health & housing assessment to the Community Care Team and if appropriate request an occupational therapy assessment which looks at whether there are any aids or adaptations that can be made to the applicant's existing property to allow them to remain at home. However, there may be a waiting list for this service.

If an applicant receives a priority award from the Health & Housing Panel, it may come with a recommendation that they move to housing that is on the ground floor. Or, it may recommend that the applicant move to housing that has a ground-floor bathroom or bedroom. (We have some properties like this but most two-storey houses are not suitable in these cases.)

Appeals

All applicants have the right to appeal a decision by the Health & Housing Panel following the Council's appeal procedure outlined in Section 10.

8.14 Allocations by the Community Housing Services Manager

In exceptional circumstances, the Community Housing Services Manager can approve the allocation of housing where there is an urgent requirement for a sensitive let.

For example, this could be where a full local lettings plan is not required: -

Antisocial Behaviour

Where there have been incidences of antisocial behaviour and a sensitive let(s) may reverse the trend.

8.15 Asylum Seekers & Refugee Families

East Lothian Council and its partners aim to support asylum seekers and refugees where appropriate, providing assistance to integrate them and help them to make East Lothian their new home - more information is available on request

8.16 Referrals to Registered Social Landlords

Nomination agreements between local authorities and housing associations allow local authorities to propose applicants for housing association property. An example of a protocol agreement can be found in Appendix 3.

Section 9: Performance Management

We will ensure that this policy, and its implementation, comply with our stated aims and objectives and are in line with relevant legislation. We will comply with the monitoring requirements of Audit Scotland, The Scottish Government, The Scottish Housing Regulator and the Scottish Social Housing Charter. Information will also be provided for the Annual Return of the Charter. Performance information will be collated and reported in line with national good practice.

9.1 Scottish Social Housing Charter

We will monitor all elements of the allocation policy in accordance with the Scottish Social Housing Charter, so that practice can be modified as required; this supports the Councils' commitment to achieving continuous improvement in service delivery.

The data for indicators is collated across a number of frequencies: monthly, quarterly, annually and 3 yearly. The 3 yearly data is gathered within our comprehensive satisfaction survey.

Number	Charter Indicator	Data Collation
1	Percentage of tenants satisfied with the overall service provided by their landlord	3 Yearly
2	Ethnic origins and disability details of service users	Routinely

3	Percentage of tenants who feel their landlord is good at keeping them informed about their services and decisions	3 Yearly
4 & 5	Percentage of 1 st and 2 nd stage complaints responded to in full in the last year, that were resolved by the landlord and also the percentage upheld	Annually
	Percentage of 1 st and 2 nd stage complaints responded to in full in the last year within the Scottish Public Services Ombudsman (SPSO) Model Complaint Handling Procedure (CHP) timescales.	Quarterly
6	Percentage of tenants satisfied with the opportunities given to them to participate in their landlord's decision making processes.	3 Yearly
18	Percentage of tenancy offers refused	Monthly
21	Percentage of lettable houses that became vacant in the last year	Annual
22 & 23	Percentage of approved medical adaptations completed during the reporting year	Annual
Number	Charter Contextual Indicators	Data Collation
C7	Number of lets during the reporting year, split between "general needs" and "supported housing"	Monthly
C8	The number of let during the reporting year by source of let	Monthly
C9	Types of tenancies granted for lets during the reporting year	Annual
C10	Housing Lists	Monthly

9.2 Monitoring

Among the issues that we monitor are: Accessing the housing list; Offers and refusals; House lets and Appeals and complaints

We also monitor how we perform in the other policies that relate to allocation practice such as exchange requests, joint tenancy applications and suspensions. Feedback from the results of our New Tenant Survey Information on all of the matters that we presently monitor is available on request.

Performance information is considered by senior staff at regular operational meetings, management team meetings and is included within reports to the Council's Policy and Performance Review Committee.

We also provide information on allocation performance to tenant groups and to tenants generally through our Homefront Newsletter, our annual Landlord Performance Report, our website and to regular meetings held with the East Lothian Tenants & Residents Panel.

9.2.1 Accessing the Housing List

- Number of new applications, including processing within the policy targets of 14 days
- Reasons for application to assess levels of need and applicants' preferences
- Applications deferred and cancelled

9.2.2 Offers and Refusals

- The total number of offers made including acceptances or refusals
- Reasons for refusal, as well as by type of property and area

9.2.3 House Lets

- Houses let to applicants by household group, type of property and location
- Nominations and referrals to housing associations

9.2.4 Appeals and Complaints

- Number of appeals made and outcomes
- Number of complaints made including outcomes

The above reports are not exhaustive and other reports will be made available upon request.

9.3 Documentation

We aim to ensure that all allocation documents meet agreed equality and plain language standards including: the policy, the application and associated leaflets.

Section 10: Appeals and Complaints

This section provides information on our appeal and complaints systems. Details of how to appeal or complain are provided to all applicants as part of general information that they receive when applying for housing.

Applicants being assessed under the homelessness legislation have a statutory right of appeal, details of which will be given to the applicants by their case officer.

If you want to make a comment, suggestion or complaint about a council service, you can get a Feedback form from your local office. This tells you about the Council's complaints procedures. It includes a form where you can make your comments. Post the form to the council. You do not have to pay for stamps - just use the Freepost address on the leaflet. Or, you can phone the Complaints Officer to discuss the issue on 01620 826600.

10.1 Appeals

Applicants may appeal against decisions with which they are dissatisfied. For example, they may appeal if they think that points awarded are not an accurate reflection of their housing circumstances.

Applicants also have a right of appeal in relation to the reasonability of an offer. Further information can be found in the [Appeals & Complaints Leaflet](#).

In addition, applicants whose applications are dealt with through the homelessness procedures have a legal right of appeal to have the decision reviewed by a senior officer not party to the original decision.

10.2 Feedback to the Scottish Public Services Ombudsman

Applicants have the right to complain if we **don't**:

- apply policy principles properly or
- meet our standards, for instance, not providing accurate advice and information

We give tenants a copy of our complaints procedure when they sign their tenancy agreement.

We also provide information about the Scottish Public Services Ombudsman; this officer investigates complaints that concern maladministration. Applicants must, in general, use the internal complaints system before contacting the Ombudsman. You should contact the Scottish Public Services

Ombudsman within 12 months of the date that you first noticed the problem you are complaining about. In special circumstances the Ombudsman may be prepared to deal with matters that have gone on longer than 12 months. Please write to the Scottish Public Services Ombudsman, 4 Melville Street, Edinburgh. EH3 7NS. Freephone tel: 0800 377 7330, freephone fax: 0800 377 7331. Email: enquiries@scottishombudsman.org.uk

10.2.1 Care Inspectorate

A complaint is an expression of dissatisfaction about the quality of service provided by a registered care service or about the competence, attitude or performance of members of Care Inspectorate staff whilst carrying out their duties. The Care Inspectorate will, at the outset of the Complaints process, agree with the complainant the National Care Standard which is applicable to the complaint. An example of a complaint about the quality of a care service might be where a person using care services, or someone acting on their behalf, complains about the adequacy or variety of food provided in a care home.

A complaint may be made at any office of the Care Inspectorate or at its Headquarters in Dundee. Complaints may be made in writing, by telephone or in person. There is also a website (www.scswis.com) for recording complaints.

Head office

Care Inspectorate
Compass House
11 Riverside Drive
Dundee
DD1 4NY
Tel: 0845 600 9527
e-mail: enquiries@careinspectorate.com

Appendices

Appendix 1: Law and Good Practice

Appendix 2: Other Policies & Strategies

Appendix 3: Nominations / Referrals to Housing Associations

Appendix 4: The Points Table

Appendix 1: Law and Good Practice

Law

Housing (Scotland) Act 2014

Housing (Scotland) Act 1987 (as amended by the Housing (Scotland) Act 2001)

Homelessness etc. (Scotland) Act 2003

Housing (Scotland) Act 2006

Code of Guidance on homelessness (as amended 31st May 2005)

The Homelessness (Abolition of Priority Need Test) (Scotland) Order 2012

Equality Act 2010

The Children and Young People (Scotland) Act 2014

Good Practice

Social Housing Allocations: A Practice Guide. Scottish Government. 2011 & February 2019

Scottish Social Housing Charter. Scottish Housing Regulator 2012 (as amended 2017)

Chartered Institute of Housing: Standards.

Care Inspectorate; National Care Standards for Housing Support

Housing Protocol Options for Care Leavers (2013)

Appendix 2: Other Policies & Strategies

Other policies and procedures that are relevant to the allocation policy are as follows:

- Local Housing Strategy
- Homelessness Strategy
- Strategic Housing Investment Plan
- assignation of tenancy
- equal opportunities
- gypsies/travellers

- mutual exchanges
- rent arrears policy
- repairs policy
- subletting
- succession to tenancy
- suspension policy
- sustainability policy
- taking in lodgers
- void management (empty house) policy
- Re-Housing Panel
- Health & Housing Panel

Appendix 3: Referrals to Registered Social Landlords

Nominations and Homelessness Duties including Section 5 Housing (Scotland) Act 2001

Protocol Agreement

1. Introduction

The purpose of this protocol agreement between East Lothian Council and a Housing Association (the Association) is to specify the arrangements associated with the nomination of re-housing applicants and with Section 5 of the Housing (Scotland) Act 2001.

The terms and conditions of the agreement will be reviewed as and when appropriate according to the guidelines set out below.

2. Principles

East Lothian Council and the Association aim to work together to:

- Address and assist in reducing homelessness in East Lothian
- Address housing need in East Lothian
- Operate an effective, efficient and equitable nomination process, which minimises void losses, and disputes between the parties to the agreement.
- Fulfil all relevant Statutory Duties

East Lothian Council and the Association wish to promote equal access to housing and are committed to a policy of equality of opportunity with regard to age, race, gender, ethnic or national origin, religion, marital status, disability or sexuality.

All information provided in connection with nominations and Section 5 referrals will be treated as confidential by both organisations.

3. Scope of Agreement

The agreement covers all lettings on a permanent basis to self-contained rented accommodation within East Lothian by the Association, with the exception of:

- Supported Accommodation properties let on an agency basis, or those purpose built for an agency.

4. Publicity

East Lothian Council will through its housing advice services ensure that information is provided to housing and transfer applicants on Housing Association allocation policies.

5. Liaison Arrangements

Both organisations will have named officers with contact telephone numbers with day-to-day responsibility for nominations and referrals.

In the event of sickness or other periods of absence, there will be a delegated substitute to assume these roles.

6. Information Sharing

Where appropriate East Lothian Council shall share confidential information including that relating to the conduct of current or previous tenancies of nominated applicants, where this affects their re-housing application.

7. Percentage of Vacancies for Nomination

The Association will offer a percentage of all re-let, newly built or newly acquired properties to East Lothian Council for nomination.

In calculating the total number of properties for nominations that will be requested, the following shall be excluded:

- Voids created by transfer where an Association tenant moves to a property owned by them. This will include mutual exchanges
- voids created through a tenant moving to another landlord where a reciprocal agreement exists, e.g. HOMES
- decants

Before offering a property to East Lothian Council, the Housing Association may first transfer its own tenants. Only one void, resulting from such a transfer or sequence of transfers will count towards the nomination quota.

8 Nominations Process

8.1 Notification of Nomination Requests

The Association will notify East Lothian Council of re-let vacancies by emailing the nominations request form which will provide all details of the property for which the nomination is requested, including details of any special eligibility rules.

For both new-build and re-lets East Lothian Council will nominate applicants accepted as being in priority need under the homeless legislation for up to 50% of all vacancies subject to there being sufficient applicants who meet the age requirements properties managed by the Association in East Lothian.

The Association reserves the right to withdraw a nomination request for a property in an emergency such as fire, flood or immediate re-housing required due to harassment. In this event, the property will not be counted as part of the 50% of stock for which nominations are sought.

8.2 Identification of Applicants for Nomination

On receipt of a request for re-let nominations East Lothian Council will identify appropriate applicants for re-housing from the Councils re-housing lists.

Details of the identified applicants will be recorded on the standard nominations form and will be faxed to the Association within 5 working days of the request being received. The applicants nominated will be prioritised by East Lothian Council.

For new build or acquired properties the Association nominations (in priority order) will be provided 12 weeks before the anticipated completion/acquisition date. The process of nomination of applicants will operate as above on the understanding that the result of the nominations will be notified to East Lothian Council at the earliest possible opportunity but in any case within 4 weeks of the nomination being made. These time scales may be extended by agreement between the Council and the Association if the new build or rehabilitated development is larger than 25 units.

If East Lothian Council fails to provide the requested nomination within the agreed time scales the Association shall remind the Council of the outstanding request by fax or phone. The identified liaison staff will discuss whether or not East Lothian Council should be given a further 2 days to respond to the nomination. If a further 2 days is agreed and East Lothian Council fails to provide a nomination in that time scale or it is agreed at the point of the failure to meet the original time-scale, the Association shall count this as a failed nomination and identify applicants for the property from its own waiting lists.

The nominations process for new build may be altered by agreement between East Lothian Council and the Association on a development by development basis provided any alternative approach is agreed 14 weeks prior to the anticipated completion/acquisition date

8.3 Number of Applicants to be Nominated.

East Lothian Council will nominate:

- 1 applicant where the basis of the nomination is that the applicant is in priority need under the homelessness legislation. In such circumstances the nomination will clearly state that it is a section 5 referral.
- For all other nominations East Lothian Council will provide 3 nominees in priority order for each vacancy for which a nomination is sought.

The Association will consider applications in order of presentation, unless the Association provides the Council with a reasonable reason, why nominees should be taken out of turn.

Before making an offer the Association will contact and visit the nominee to confirm the details of the application.

8.4 Rejection of Nominees (Not Section 5 referrals)

The Association may reject East Lothian Council's nomination where:

- the nominee has current or previous outstanding rent arrears or rechargeable repair arrears in excess of one months rent, and no agreed repayment arrangement has been maintained for a minimum of three months. This ground may be waived in circumstances where the applicant is fleeing harassment as defined by the Housing (Scotland) Act 2001 and/or domestic violence
- the nominee caused serious management problems, which resulted in legal action being taken. In coming to a decision to reject a nomination on this ground, the Association would look at the circumstances and elapse of time since the tenancy ended.
- the circumstances of the nominee have changed since the Council last assessed them, and the property in question is no longer suitable for their needs.

- the Association is concerned that the household contains a person who may not be able to cope with living in the property without additional care or support, which either the household is unwilling to accept, or which cannot be arranged.
- In these cases the Association will first contact East Lothian Council to see whether differences can be reconciled, or solutions found. Where agreement cannot be reached, the Housing Association shall proceed in line with their policy position. Failed nominations will be reported to East Lothian Council on the nomination outcome form.

9. Section 5 Referrals

9.1 General

Section 5 of the Housing (Scotland) Act 2001 places statutory duties on housing associations and other registered social landlords to provide accommodation to homeless people. All homeless nominations will be considered to be Section 5 referrals made by East Lothian Council to the Association and will where possible be contained within the priority homeless quota, outlined in section 10

The Council will confirm contact arrangements for the Case Officer, and with the applicant's written consent, make available relevant information concerning their housing history and any other matters that it would be reasonable for a prospective landlord to take into consideration, including any specific requirements and/or support needs. Where the applicant has not granted permission for such information to be provided, the Association will be informed of the refusal.

The Council will also provide any other information of which the Association should be aware of in an attempt to ensure that the tenancy can be sustained and any potential issues relating to health and welfare of existing residents can be taken into consideration and properly assessed.

It is agreed that both parties can enter into informal discussion concerning an individual household/person prior to the initiation of the formal referral process. Such discussion will not bind the Council to agreeing to any refusal by the Housing Association to comply with any subsequent formal request for accommodation for the household concerned.

East Lothian Council will make a formal referral by fax using the Section 5 Referral Form.

Prior to formally responding, the Association will notify the Council of any reason for not wishing to comply which was not apparent from earlier discussions and/or which falls out with those specified in the guidance to the

legislation. It will be for the Council to decide whether or not to proceed with the request to re-house.

The Association will give its formal response within 5 working days of the receipt of the request. In the period prior to responding, the Association may contact the Homelessness Section for further information or to provide new information. Such information may result in extending the time for the Association to carry out its part of the procedure.

The Association's response will be one of the following:

- Confirms that the household/person referred to the Association under Section 5 of the Housing (Scotland) Act 2001 is being allocated the stated property.
- Confirms that the Association is refusing the request, stating "good reason" not to comply.

If the Association has made an allocation to a Section 5 referral, East Lothian Council will be notified if the property is subsequently refused. The property will be held for 5 working days as outlined in Section 14. If the property is not then accepted, the Association will request a further section 5 referral as detailed in section 10, timescales permitting. If timescales do not permit then the association is entitled to go back to its own waiting lists and this will be treated as a failed nomination

If the Association refused the referral stating "good reason" not to comply, the Association will specify its reasons for non-compliance. The Council will consider the Association's response and reply within 3 working days. Its options are:

- to discuss the Association's response and review it's request
- to withdraw it's request
- to indicate commencement of a period of 5 working days within which the parties must either reach agreement or submit to arbitration.

9.2 Rejection of Section 5 Referrals

The Association can reject East Lothian Council's section 5 referral where:

- the person concerned has current or previous outstanding rent arrears or rechargeable repair arrears in excess of one months rent, and no agreed repayment arrangement has been maintained for a minimum of three

months. This ground may be waived in circumstances where the applicant is fleeing harassment as defined by the Housing (Scotland) Act 2001 and/or domestic violence or by agreement between the Association and the Council.

- the person concerned caused serious management problems, which resulted in legal action being taken. In coming to a decision to reject a nomination on this ground, the Association would look at the circumstances and elapse of time since the tenancy ended.
- the circumstances of the person have changed since the Council last assessed them, and the property in question is no longer suitable for their needs.
- the Association is concerned that the household contains a person who may not be able to cope with living in the property without additional care or support, which either the household is unwilling to accept, or which cannot be arranged.

In these cases the Association will first contact East Lothian Council to see whether differences can be reconciled, or solutions found. Where agreement cannot be reached, the arbitration process outlined in section 13 will be implemented.

10. Disputes and Arbitration (Section 5 Referrals)

Both parties will, in the first instance, attempt to resolve any dispute arising from the operation of this agreement by informal discussion in order to avoid the need for arbitration. At the informal discussion stage, both parties will take cognisance of Scottish Executive Guidance on good reason for noncompliance with a request to re-house and to section 13 of this agreement.

If the matter cannot be resolved informally, it will be referred to a Disputes Panel made up of representatives of East Lothian Council and the Association. The Disputes Panel will be chaired by someone, independent or otherwise, agreed by both parties.

Throughout the course of any Formal Dispute, the void property subject to the Dispute will remain unallocated until the outcome of the Dispute is known.

The Disputes Panel will meet and reach its decision within 5 working days of a Dispute being referred to it. The Panel will also decide how any financial losses incurred by either side are to be split.

The decision of the Disputes Panel will be final and binding on both parties.

All Formal Disputes will be recorded in Housing Association Disputes Form (appendix 5) copies of which will be provided to both parties.

In the event of the Disputes Panel being unable to reach agreement on the outcome of a Dispute, both parties will, as a last resort, consider using the arbitration process outlined by Communities Scotland.

11. Refusal of Offer by Homeless Applicant

The Housing Association may offer available properties to priority homeless applicants who have either applied directly through Homehunt, been nominated by East Lothian Council or been referred by East Lothian Council under section 5 of the Housing (Scotland) Act 2001.

Under East Lothian Council policy, homeless applicants are entitled to one *reasonable offer of accommodation. If a homeless applicant is offered a property by the Housing Association and refuses the offer, East Lothian Housing Association shall notify East Lothian Council of the refusal and the reasons by email or telephone on the day of the applicant's refusal.

*East Lothian Council deem an offer as being reasonable if it is within the applicant's areas of choice, meets their specified property type and is appropriate for their family size and assessed health needs. A reasonable offer can also be made to the applicant from one of our Housing Association partners and will be counted as such by the Council. An applicant may appeal against any offer they feel is not reasonable - please see Section 10.

East Lothian Council's Homeless Persons Section will need to investigate and decide whether the re-housing duty towards the applicant has been discharged. The Housing Association shall hold this property for the applicant until the Council has completed such investigations. East Lothian Council will normally notify the Housing Association of the outcome within 7 working days.

If an applicant appeals about the reasonability of the offer of housing the Council will on concluding that appeal confirm the outcome to the Housing Association in order for them to take a view on the continued availability of a "Gold Pass" to that applicant.

If East Lothian Council require further time to reach a decision, this will be granted at the discretion of the Housing Association. If at the end of the Council's investigation the original applicant does not accept the property, the Association will offer the property to the next priority homeless applicant on the Homehunt list. If no other priority homeless applicants have applied under Homehunt, a nomination will be requested from East Lothian Council in accordance with section 10 above. If a second offer to a priority homeless applicant is refused then at the end of the investigation period if the applicant does not accept this will be treated as a failed nomination as detailed in section 10 above and the Association will offer the property to the highest placed ordinary applicant in accordance with its Allocations Policy.

Throughout the operation of the provisions of this section, if the property is ready for occupation East Lothian Council will reimburse the Housing Association for all rent losses incurred.

12. Allocation Policies Differences

East Lothian Council undertakes to nominate applicants who meet the minimum re-housing requirements of the Association.

13. Monitoring Of Nominations Performance

An annual review meeting will be held to discuss performance of this agreement, to identify any problems found in its operation and to propose and agree any changes required to address the identified problems. If problems are identified prior to the annual meeting a meeting will be convened at the request of either party to attempt to resolve the matters in question.

Appendix 4: The Points Table

Needs Factors	Groups	Points
☐ People who are living under unsatisfactory housing conditions	Health Needs	
	☐ Cat. A	80
	☐ Cat. B	50
	☐ Cat. C	6
	Social Need	300
	Keyworker	80
	Two Tenancies for One	80
	Shared Amenities	8
	Loss of Tied Tenancy	40
	Loss of Service Tenancy - Armed Forces	4 points per year - max 40 points

AND who have unmet housing needs	Overcrowding (per bedroom short)	4 or 8 pts
	Closing Order	80
	Tenemental Flat or Shared Stair	4 or 3 pts
	Insecurity of Tenure (private tenancies created prior to December 2017)	8
<input type="checkbox"/> Social housing tenants who are under occupying their tenancy	Housing Supply (transfer & RSL tenants only)	20 pts per bedroom
<input type="checkbox"/> Homeless persons & persons threatened with homelessness AND who have unmet housing needs	re-housing under Those accepted for homelessness legislation	200

Sustainable Communities Attributes: - (Date of application applies)

Employment

- Student for at least 6 months
- Employment for at least 6 months
- Self employed for at least 6 months

- **First Time Householder** ○ Living with family for 6 months/not overcrowded
- **Tenure** for example ○ Private rented sector ○ Sub tenant ○ RSL tenant ○ Council Tenant/other
 - Couple - no children
 - Couple with children
- **Household Composition** ○ Single person ○ Single parent with
 - 16 - 17 ○ 18 - 24 ○ 25 - 44 ○ 45 - 59
- **Social Connection** ○ Live currently in the area ○ Close relative in area
- **Anti-social Behaviour** ○ No
 - 60 - 64 ○ 65 - 69 ○ 70 +