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# **KILKENNY COUNTY COUNCIL**

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## **SCHEME OF LETTING PRIORITIES**

**(Allocation Scheme for Social Housing Supports)**

**OCTOBER 2023**

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## **PART 1**

### **Purpose of the Scheme**

This Scheme of Letting Priorities has been prepared in accordance with Section 22 of the Housing (Miscellaneous Provisions) Act 2009 and the Social Housing Allocation Regulations 2011 (S.I. No. 198 of 2011). The purpose of the Scheme is to:

1. determine the order of priority to be given in the allocation of all housing support to persons whose eligibility and need for accommodation has been established in accordance with Section 20 of the Housing (Miscellaneous Provisions) Act 2009,  
  
and
2. determine the order of priority to be given in the allocation of all housing support to existing tenants of Kilkenny County Council, including households accommodated under the Rental Accommodation Scheme and Housing Assistance Payment Scheme, and tenants of Approved Housing Body properties in Co Kilkenny.

The making of an allocation scheme is a reserved function of the Council, but the housing authority must comply with any direction or regulation as may be specified by the Minister in relation to amending an allocation scheme. Each applicant approved for social housing support shall be advised of the Council's allocation scheme

### **Housing Covered by the Scheme**

The types of housing covered by this Scheme include:

1. Properties provided under the Housing Acts 1966 to 2009 or Part V of the Planning and Development Act 2000(as amended) owned by the Council and
2. Properties not owned by the Council which are provided under contract or lease between the Council and the owner concerned, including rental accommodation availability agreements and leasing and
3. Properties owned and provided by Approved Housing Bodies (AHBs) to whom assistance is given under section 6 of the Housing Act 1993 for the purposes of such provision.

## Assessment of Bedroom Requirements

The bed need of all applicants will be assessed on the following basis and in accordance with Section 63 of the Housing Act 1966.

| Bed Type     | Maximum Number of Bed Spaces | Family Composition                                          |
|--------------|------------------------------|-------------------------------------------------------------|
|              |                              |                                                             |
| <b>1 Bed</b> | <b>1</b>                     |                                                             |
|              |                              | 1 Adult/ Couple                                             |
| <b>2 Bed</b> | <b>4</b>                     |                                                             |
|              |                              | 1 Adult & 1 Child                                           |
|              |                              | 2 Adults                                                    |
|              |                              | 1 Adult and Access/lessor custody to any number of children |
|              |                              | 1 Adult and 2 children (same sex)                           |
|              |                              | 2 Adults and 1 Child                                        |
|              |                              | 2 Adults and 2 Children (same sex)                          |
|              |                              | 3 Adults (1 couple and 1 single)                            |
|              |                              | 1 Adult and live in carer                                   |
| <b>3 Bed</b> | <b>6</b>                     |                                                             |
|              |                              | 1 Adult and 2 Children (different sex)                      |
|              |                              | 1 Adult and 3 Children                                      |
|              |                              | 1 Adult and 4 Children                                      |
|              |                              | 2 Adults and 2 Children (different sex)                     |
|              |                              | 2 Adults and 3 Children                                     |
|              |                              | 2 Adults and 4 Children                                     |
|              |                              | 3 Adults                                                    |
|              |                              | 3 Adults and 1 Child                                        |
|              |                              | 3 Adults and 2 Children                                     |
|              |                              | 4 Adults                                                    |
|              |                              | 4 Adults and 1 Child                                        |
| <b>4 Bed</b> | <b>7</b>                     |                                                             |
|              |                              | 1 Adult and 5 Children                                      |
|              |                              | 2 Adult and 4 Children                                      |
|              |                              | 3 Adult and 4 Children                                      |
|              |                              | 2 Adults and 2 Children                                     |
| <b>5 Bed</b> | <b>9</b>                     |                                                             |
|              |                              | 2 Adults and 6 Children                                     |

Notwithstanding the above table there may be cases where the specific housing need warrants an alternative solution.

## **Children in Shared Custody/ Access Arrangements**

In the case of a parent living apart from his/her children to whom he/ she has shared custody social housing support may be allocated for such custody. Where custody of children is shared, evidence of such custody will be required as follows:

- (a) Copy of the legal agreement or court order setting out the custody arrangements.
- (b) If no such agreement / order exists both the applicant and the other parent/guardian of the child /children shall provide a statutory declaration to the effect that **overnight** access agreement is in place and submit details thereof.

Kilkenny County Council will assign the full bedroom requirements to the parent with whom the children reside for the greater part and applicants with partial custody arrangements or access arrangements to their children for the lesser part shall, on production of relevant documentary evidence, be deemed to have a two-bedroom need.

## **PART 2**

### **The Social Housing Supports List**

Applicants who have been assessed and deemed eligible for Social Housing Support are placed on the Social Housing Supports List. Their time on the list begins from the date on which the Council approved their application for Social Housing Support.

### **Position on the Housing Waiting List**

An applicant's position on the Social Housing Supports List is determined by the length of time the person/household has been on the list. Offers of Social Housing will be made based on the position on the list except in cases where the housing need has been deemed to fall under the priority categories below.

### **Allocation Scheme: Order of Priority**

The following categories are considered to be priority cases and will be considered for **all forms of social housing support**. In all cases, regard shall be had to the **length of time** that has elapsed since the applicant qualified for inclusion as a qualified applicant for housing by Kilkenny County Council.

1. **Emergencies:** Persons being displaced from Dangerous buildings under the Local Government (Sanitary Services) Act, 1964, or potentially dangerous buildings under the Fire Services Act 1981, as amended, or persons rendered homeless by fire, flood, storm damage etc. or by operations of the County Council from dwellings urgently required for redevelopment.
2. Households that are **homeless** as defined by section 2 Housing Act 1988.
3. Applicants living in **unfit** Conditions as defined in Section 66 of the Housing Act, 1966.
4. Applicants living in **overcrowded** conditions as defined in Section of 63 of the Housing Act, 1966.
5. **Older persons** (aged 55 years or more). Accommodation under this category will be those provided specifically for older persons or that is specifically suited to the older person's need.
6. Applicants in need of housing on **disability, medical, compassionate** or other similar grounds
7. **Traveller** Households: Including households who wish to be housed in standard social Housing supports and in Traveller specific accommodation under this category will be provided in accordance with the Kilkenny Local Authorities Traveller Accommodation Programme.
8. Applicants not included in any other category above, who have been assessed and approved for Social Housing Support.

Notwithstanding the above, all households in the above categories are subject to the terms of the Councils Anti-Social Behaviour Strategy. No allocations will be made to any households where the Council considers that the household is engaged or has been engaged in anti- social behaviour or where the allocation or nomination is not in the interest of good estate management.

## **PART 3**

### **Emergency accommodation**

Where the need for accommodation of any person arises from an emergency, including homelessness or domestic violence, the Authority may make a letting to that person as it considers necessary, notwithstanding any order or priorities set out in Part 2 of this Allocation Scheme. In dealing with persons who are homeless due regard shall be had to the Regional Homelessness Action Plan adopted by the Local Authorities.

### **Choice Based Letting**

Kilkenny County Council will operate Choice Based Letting (CBL) for designated houses for allocation whereby qualified households may apply for tenancies in such designated houses in accordance with the Sections 6 – 11 of the Social Housing Allocations Regulations 2011, and any subsequent regulations specific to CBL.

All of the terms of this Scheme of Letting Priorities shall apply to the letting of houses under Choice Based Letting. Choice Based Letting (CBL) as provided for under the Social Housing Allocation Regulations 2011 may be used for the majority of dwelling types being let by the Council.

However, not all dwellings becoming available for letting will be offered through CBL. In particular dwellings designated for example for the accommodation of elderly or older persons, for physically disabled persons or other dwellings as may be required due to exceptional or necessary circumstances will not be allocated through CBL.

Applicants are permitted to bid for properties in any area within the County and are not confined to the 3 areas on their application form. However, where there are a number of applicants for the same property and all have the same priority need, first consideration will be given to the individual who had identified the location as one of their preferred areas.

In the event of an applicant expressing an interest in a CBL property, but subsequently unreasonably refusing an offer of that property the applicant shall not for the period of 1 year be entitled to make a further application under CBL for the allocation of a property.

## **Setting Aside of Properties**

Kilkenny County Council may decide from time to time to set aside a number of properties in a particular scheme to a particular category or categories of applicant.

- (a) Single person households: Kilkenny County Council may reserve a number of vacancies arising in 2-bedroom properties for this category of applicant
- (b) Emergencies
- (c) Older persons
- (d) Persons who are homeless
- (e) Persons with disabilities/special needs
- (f) Travellers.

## **Allocation of dwellings to community groups etc.**

In the interest of good estate management, or in order to facilitate or promote the implementation of policies on Tenant Participation in estate management, the Local Authority may, as it thinks fit, allocate any dwelling to an approved residents association, community group, or other voluntary or statutory agency in order to facilitate that group in furthering its aims and objectives and in carrying out various activities for the benefit of the residents generally in the estate

## **Traveller Accommodation Programme**

Kilkenny County Council has adopted a Traveller Accommodation Programme under the requirements of the Housing (Traveller Accommodation) Act 1998.

The Programme includes a number of housing options for fulfilling the accommodation needs of Travellers including the allocation of social housing units, and this scheme shall apply to the housing of Travellers in the same manner as to other categories of applicant.

## **Anti-social behaviour**

Under the provisions of Section 14 of the Housing (Miscellaneous Provision) Act, 1997, the Local Authority may refuse to make or defer the making of a letting of a dwelling to a person where the Authority considers that the person or any other person who may intend to reside with them, is or has been engaged in serious anti-social behaviour, or that a letting to that person would not be in the interest of good estate management.



For this purpose, anti-social behaviour shall be as defined in the Kilkenny County Council Strategy on Anti-Social Behaviour and where the making of a letting is deferred, such deferral shall continue until such time as the Local Authority is reasonably satisfied that that anti-social behaviour is unlikely to re-occur in the future.

Any person who illegally occupies a Local Authority dwelling will not be considered for an allocation of that or any other dwelling unless and until the occupied dwelling is surrendered to the Local Authority in the same condition as existed prior to the illegal occupation.

### **Squatting**

Where a person or household is occupying a Council property without the appropriate consent of the Council, they will not be considered for any property allocated in accordance with this scheme.

### **False Information**

An applicant who gives information which he/she knows to be false or misleading or fails to supply information which he/she knows to be material may be excluded from consideration under the scheme.

### **Pre-tenancy training**

Attendance at a pre-tenancy course is a requirement for all allocations including both parties in the case of joint applicants.

### **Good estate management**

In the interest of good estate management, the local authority will have regard to the need to sustain a balanced community. Kilkenny County Council will endeavour to investigate each applicant's previous housing history and reserves the right to seek all relevant information from other Local Authorities and approved housing bodies and statutory bodies such as H.S.E., Gardai with particular reference to Anti-Social Behaviour.

## **Information Supplied to Kilkenny County Council**

In considering an applicant's entitlement to accommodation, the Council will require information in relation to current and previous circumstances. This may require provision of data/information by other agencies in order to assess their eligibility for accommodation. In cases where such information is not forthcoming the Council reserve the right to defer indefinitely an application for housing. Where information is supplied in support of applications the Council will undertake such enquiries as necessary, in order to verify this information from other Local Authorities, Voluntary Bodies, H.S.E. & Gardai particularly in relation to anti-social behaviour.

### **PART 4**

#### **Refusal of offer of accommodation**

In the event of refusal of 2 reasonable offers of different social housing (Local Authority Stock, dwellings under RAS, leased properties or an Approved Housing Body) over a 12 month period, commencing on date of first refusal, and within areas of choice the applicant will not for the period of 1 year commencing on the date of second refusal be considered by any housing authority for the allocation of social housing support and that period shall be disregarded in calculating the period of time and/or relative priority on the list.

Two refusals will also mean that a household may lose rent supplement.

### **PART 5**

#### **Applications from Former Local Authority/AHB/RAS Tenants**

In relation to applications made by former Local Authority/AHB/RAS Tenants the following applies:

- (a) Where a house was abandoned, the application shall not be considered for a period of five years
- (b) Where the property has been repossessed due to non-payment of rent or anti-social behaviour the application will not be considered for a period of two years

- (c) Where a house/tenancy was surrendered the application shall not be considered for a period of two years except in the case of permanent marriage dissolution or relationship breakdown.

The acceptance of such applications will then only be considered:

- (a) if the applicants had complied with letting agreement and they have not engaged in anti-social behaviour, subject to (b) above.
- (b) If an applicant was previously a Local Authority/AHB/RAS/HAP tenant and incurred arrears of rent for an accumulated period of 12 weeks or more in any period of three years and where the arrears have not been paid and an arrangement has not been entered into with the housing authority for the payment of the arrears or where such an agreement has not been substantially complied with, the Council may not consider the applicant for social housing supports in conjunction with Section 25 of Social Housing Assessment Regulations 2011.

Kilkenny County Council may consider a household referred to in Part 5 above for the full range of social housing supports where it is satisfied that there are exceptional circumstances and to do so does not conflict with good estate management.

## **Arrears**

In relation to HAP Tenants being considered for allocation, Tenants shall provide evidence of a clear rent account. This will not entail any review of eligibility.

## **PART 6**

### **Transfer policy**

Tenants of the Council, including tenants of dwellings provided under the Social Housing Leasing Initiative, RAS, HAP Transfers or by (Approved Housing Bodies) AHB's may apply for consideration for a transfer to other dwellings, under the following circumstances and priority basis;

#### **Priority 1: Overcrowding**

Overcrowding is defined under section 63 Housing Act 1966 as;

*'A house shall for the purposes of this Act be deemed to be overcrowded at any time when the number of persons ordinarily sleeping in the house and the number of rooms therein either—*

*(a) are such that any two of those persons, being persons of ten years of age or more of opposite sexes and not being persons living together as husband and wife, must sleep in the same room, or*

*(b) are such that the free air space in any room used as a sleeping apartment, for any person is less than four hundred cubic feet (the height of the room, if it exceeds eight feet, being taken to be eight feet, for the purpose of calculating free air space),'*

**Priority 2: Downsizing.**

Older persons and other households wish to move to smaller accommodation (downsizing);

**Priority 3: Disability/Medical Grounds.**

Where priority is claimed on Disability / Medical Grounds, the applicant shall submit a Medical Assessment Form and report from a Medical Practitioner detailing their disability/medical condition and how this impacts on their housing requirements. The Council in considering the awarding of a priority claimed on medical grounds may seek a recommendation from a medical practitioner appointed by the Council.

|                                                                                           |
|-------------------------------------------------------------------------------------------|
| <b>Transfer Applications not falling into the above categories will not be considered</b> |
|-------------------------------------------------------------------------------------------|

## **Transfer Conditions**

Notwithstanding the above, tenants seeking a transfer must fulfil the following: –

- hold the tenancy in their present dwelling, for a period of at least two years, unless it is a temporary tenancy;
- have a clear rent account – any transfer will take account of rent arrears but allowances may be made where an agreement is in place, and being adhered to by the tenant to address any such arrears over an agreed period of time;
- have kept their dwelling in satisfactory condition, subject to inspection;
- have complied with the conditions of their Tenancy Agreement and
- have no record of anti-social behaviour.

Priority may be given to a household in receipt of social housing support in a property that is not owned by the Council and the house is no longer available to them through no fault/act of their own; i.e. rental accommodation availability arrangements, long term leasing initiatives etc.

One refusal of reasonable offer of a transfer will result in a household being deemed ineligible

for a transfer and their application for a transfer will be closed. No further transfer applications will be considered by Kilkenny County Council within 24 months.

**Note: The Council may seek to transfer tenants in order to achieve maximum use of housing stock and on good estate management grounds.**

## **Mutual exchanges**

Kilkenny County Council may be agreeable to accommodate applications for mutual exchanges between two tenants within Kilkenny who have been in occupation for a period of two years provided the above **transfer conditions** are met in the case of each tenant along with;

- a) satisfactory tenancy record with no arrears of rent or other charges
- b) no verified instances of anti-social behaviour in the previous 5 years.
- c) house maintained in a satisfactory condition in accordance with the terms of the Tenancy Agreement and Tenancy Handbook.
- d) house to which transfer is taking place is adequate in size, layout and standard of accommodation for each applicant and their dependants.
- e) Each tenant agrees in writing to accept the other house in its present condition in as far as any works or maintenance required is the responsibility of the tenant in accordance with (c) above.

## **Succession of tenancy**

In the event of the death or movement to a nursing home of one of the tenants in a joint tenancy, the tenancy will ordinarily be transferred to the surviving/remaining tenant or the spouse/partner, provided that he/she has been continuously resident in the dwelling for a period of not less than 5 years immediately prior to the death or movement to a nursing home of the tenant, and has been declared for and assessed for rent purposes for that entire period and is over 18 years of age. Periods of residence not declared for rent assessment purposes are not applicable.

Applications for Succession of Tenancy **will not** be eligible for approval where: -

- The applicant/s have been either investigated or convicted in respect of anti-social behaviour, drug or public order offences within the 5 years prior to application.
- The applicant/s have had a tenancy terminated due to rent arrears or anti-social behaviour with a private rent landlord, Approved Housing Body or local authority within the 5 years prior to application.

- The applicant/s have surrendered or abandoned a local authority, RAS, HAP supported or Approved Housing Body tenancy within the 2 years prior to application.
- The application does not include all documentation or information required as part of the Succession of Tenancy application form.
- The applicant/s do not qualify for social housing support based on a current housing need assessment. (Exceptions to this requirement will be considered where an applicant has continuously lived at the property and been declared for rent purposes for a period of 10 years or more.)
- The applicant/s have not been approved to reside in the property as a result of a Right to Reside application.
- False information is provided as part of the application for Succession of Tenancy.
- The agreement of the Succession of Tenancy may, in the view of the local authority, result in estate management issues.

Succession of Tenancy **will** be eligible for approval where: -

- The applicant/s are family members who have continuously lived at the property for a period of more than 5 years and have been listed during that period for rent assessment purposes, and have been approved for social housing supports.
- The applicants are family members who have continuously lived at the property for a period of 10 years or more, and have been listed during that period for rent assessment purposes. Eligibility for social housing support will not be required where the applicant/s have continuously lived at the property for a period of 10 years prior to application as their permanent home.
- A joint application is made by an eligible family member to succeed the tenancy, and all family members having the same eligibility to succeed the tenancy provide their written agreement to the application.

Succession of Tenancy **may** be eligible for approval where: -

- The property to which the application for succession of tenancy relates has been provided as an adapted property to meet high level disability needs and the applicant/s do not have a disability need suited to the property. Where the applicants are eligible to be approved for succession of tenancy but the property is required to meet an outstanding disability need every effort will be made to meet the requirements of all parties at alternative accommodation or to approve succession where appropriate. Each case relating to a tenancy provided on disability grounds or significantly adapted during tenancy will be dealt with in consultation with the applicants.

- The applicant/s application is in respect of a property that is excessive in size to the family or individuals' requirements the local authority will deal with any application that would result in underoccupancy on a case by case basis and seek right sizing alternative accommodation by agreement.

## **Right to Reside**

Where a Tenant of a Local Authority property in Kilkenny wishes someone to come and live with them, the tenant/s must apply to the Housing Section, Tenancy Management Team for permission for any additional person to live at a local authority tenancy by filling out a Permission to Reside form. A tenant shall not allow someone to live at their home without prior written permission from Kilkenny County Council as Landlord.

It is the responsibility of the tenant to ensure that all occupants of their tenancy are notified to Kilkenny County Council as part of each rent review completed by the tenant. Where the tenant wishes to have another person reside on a temporary or permanent basis at their tenancy it is their responsibility to seek the agreement/consent of the local authority as landlord before the person moves in. The consent of the local authority must be sought by submission of an application for right to reside. All persons living at a council tenancy must be included in the calculation of rent. It is the responsibility of the tenant/s of each household to notify Kilkenny County Council of all persons living at their tenancy. Failure to include all occupants in the calculation of rent is a breach of tenancy and will result in enforcement action.

Applications for Right to Reside will not be eligible for agreement where: -

- The applicant or tenant have been either investigated or convicted in respect of anti-social behaviour, drug or public order offences within the 5 years prior to making of the application.
- The applicant has had a tenancy terminated due to rent arrears or anti-social behaviour which has resulted in the application for Right to Reside.
- The applicant is considered to have rendered themselves homeless through refusal of accommodation, abandonment or surrender of tenancy in Kilkenny or elsewhere.
- The application will, in the view of the local authority, cause overcrowding at the tenancy.
- The application does not include all documentation or information required as part of the Right to Reside application form.
- False information is provided as part of the application process.

- The agreement of the Right to Reside may, in the view of the local authority, result in estate management issues.
- The applicant has rent arrears in their current or previous accommodation.
- The applicant owns or has an interest in a property in Ireland or any other country.

Applications for the Right to Reside may be approved as follows: -

- Temporary Right to Reside - where the application is made to provide care to an elderly, disabled or seriously unwell tenant in need of full-time care. This right to Reside will be linked to the requirement for care by a family member and will not result in a Right to Succeed the tenancy. This Right to Reside will cease when this care is no longer required.
- Conditional Right to Reside - where the application is made to provide short-term support to a relative, or to provide a temporary housing solution to a family member in need of accommodation. Where the applicant is not eligible for social housing supports and the application is made to meet the short-term needs of the tenant or applicant a conditional right to reside may be provided. Where a conditional right to reside is provided, it will be clarified whether a Right to Succeed the tenancy arises. Where the applicant does not qualify for social housing supports, a conditional right to reside may be permitted including a condition that the applicant will not be eligible to apply for succession of tenancy.
- Permanent Right to Reside will be agreed where a family member intends to live permanently in the tenancy and may meet the criteria for succession of tenancy in the future.
- Where an application for Right to Reside is approved and that applicant is an open applicant for social housing support that application may be closed if they are deemed to be adequately housed.

## **Appeals**

Any person who is aggrieved by the Council's decision has the right to appeal in writing to the Director of Services for Housing within 10 working days of the Council's decision.

Nothing in this scheme shall prevent the Chief Executive or their delegated officer(s) making an allocation or granting a transfer in emergency/exceptional circumstances.