

# HOMES FOR LIFE HOUSING PARTNERSHIP

## ALLOCATIONS POLICY

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### 1.0 INTRODUCTION

#### 1.1 General

1.1.1 This document outlines the Company's Allocations Policy, one of the key documents we produce. In line with good practice, the underlying principle in allocating housing stock is to take full account of housing needs whilst sustaining local communities. This will help the Company achieve both operational and strategic objectives.

1.1.2 The aims of Homes for Life Housing Partnership in relation to the allocation of housing are:

- to provide affordable housing for those in housing need
- to reduce homelessness, particularly in the East Lothian area
- to contribute to achievement of sustainable communities

#### 1.2 Nominations Agreement and Section 5 Protocol with East Lothian Council

1.2.1 The Company has a combined Nominations and Section 5 Protocol with East Lothian Council (**See Appendix 3**)

1.2.2 In order to assist East Lothian Council meet its statutory obligations towards homeless households and the legislative requirement of abolishing the concept of priority need in 2012, Homes for Life will advertise up to 50% of all relets as available for homeless Priority Pass holders who hold a determination granted by East Lothian Council. Where no such applicants apply, we will revert to the Nominations and Section 5 Protocol under which East Lothian Council will provide a homeless nomination.

#### 1.3 Formulation of Policy

1.3.1 This policy takes account of good practice documents, required legislation and relevant guidance.

1.3.2 It also takes account of tenant input and wider feedback to the 2019 consultation

1.3.3 The policy in part, attempts to summarise current legislation. In case of conflict between those parts and current legislation, the legislation shall prevail. Where legislation has been amended since this policy was approved, this policy shall be read consistently with the amended legislation

## **1.4 Equality and Diversity**

1.4.1 The Company aims to be an equal opportunities organisation. To this end we have a separate Equality and Diversity policy.

1.4.2 This means that the Company will seek to ensure that all applicants have an equal right of access through implementation of this policy, and that:

- It will not directly or indirectly discriminate against any applicant, on the grounds of ethnic origin, sex, religion, marital status, gender, disability, sexuality or political belief as detailed within the Equal Opportunities Policy
- In the provision of housing services, it will seek to ensure equality of opportunity and treatment.
- The records of the racial origin, gender and disability of each applicant will be monitored to help measure and fulfil the commitment to equal opportunities

## **2.0 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.

## **2.1 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 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.

Homes for Life 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.

### 3.0 THE HOUSING LISTS

3.1 Anyone who is 16 years or older has the right to apply for housing and to be admitted to any Registered Social Landlord's Housing List. Traditionally Registered Social Landlords have each maintained separate lists and applicants have needed to register separately with a number of different RSLs who are active in their area of choice, some of whom may have very limited turnover of existing stock or very limited future development programmes. This can be inefficient, ineffective and inconvenient for both applicants and Registered Social Landlords. The Company is committed to working with East Lothian Council and other Registered Social Landlords active in East Lothian, to simplify and improve access routes into housing. In order to ensure its vacant properties are made as widely available as possible, the Company has chosen to jointly operate, with Castle Rock Edinvar Housing Association, a choice based lettings system of Allocations and a shared housing list. The system is called HomeHunt® (See **Appendix 1, How HomeHunt works**)

#### **Admission to Housing Lists**

3.2 Applicants will have to be clear on the difference between the right to be admitted to Housing Lists and the right to be allocated a house. The Company's turnover is historically very low and, therefore, the expectation is that it will be able to provide offers for only a small minority of applicants interested in housing in East Lothian. Consequently, no guarantee can be given that any applicant will be made an offer of housing.

3.3 Applicants should register for HomeHunt on <https://www.homehunt.info/> selecting our partner Castle Rock Edinvar Housing Association as lead landlord. Once registered applicants should apply to individual landlords for Priority Passes. (See **Appendix 1 How HomeHunt Works** for Castle Rock Edinvar's Priority Pass definitions)

#### **Advertising**

3.4 Our properties are advertised on the following website [www.homehunt.info](http://www.homehunt.info). The closing date for all adverts is each Thursday at 11am.

#### 3.5 **Selection:**

Once the closing date has been reached, all notes of interest will be logged and shortlists produced. We will use the following criteria:

- The applicant who would make best use of the property e.g. use any adaptations or maximise use of available bedspaces as per Homes for Life's own Occupancy Level criteria as outlined at **Appendix 2**.
- The applicants with the highest level of applicable priority pass.
- If more than one person meets the above criteria, the offer will go to the person who was awarded their priority pass first. If there is more than one person applying and there are no priority passes used, the offer will go to the person who registered with HomeHunt first.
- We will only contact shortlisted applicants.

- Where an applicant is shortlisted and being considered for a property, they will be bypassed for consideration for any other offer of accommodation.

3.6 There may be circumstances where properties need to be withdrawn after they have been advertised. This could be as a result of damage to the property or where a tenant has decided not to move.

### 3.6 Home Visit

We will complete an allocation interview to gather and confirm information provided on the HomeHunt or Nomination form. During this interview we will discuss the applicant's housing requirements, previous tenancy details and carry out financial and risk assessments. The information received along with previous tenancy references (if applicable) will be used to decide if we can proceed with the application.

Current and/or former landlord(s) may be contacted to confirm factual information about the applicant to ensure no breaches of their tenancy agreement. Permission from the applicant will always be obtained before a landlord is contacted. This permission is given when the applicant completes the application or registration form. We will seek tenancy references for the past five years housing history. Where we do request a reference, any offer of housing will be subject to a satisfactory report being received.

### 3.7. Bypass

There may be circumstances where we have to bypass applications for housing. We are unlikely to offer accommodation if applicants:

- Require more assistance or support than we (or associated agencies) are able to provide. The requirements of the Equality Act 2010 will be taken into account when this assessment is made and advice and guidance about suitable housing will be given. Any decision will be approved by a senior member of staff.
- Require support but there is no support package in place to allow them to cope with a tenancy.
- Are a former Homes for Life tenant who has been evicted by us, or is a member of the former tenant's household whose actions or behaviour contributed to the decision to evict. (If the eviction was for rent arrears and an arrangement to repay the arrears has been maintained for a minimum of three months and is continuing, the applicant may be considered for housing);
- There is clear evidence from an official source that the applicant is or has been guilty of serious anti-social behaviour and it is likely that housing the applicant will cause annoyance, harm or risk to our tenants, staff or others living around or about;
- Have rent arrears or other tenancy related debts and there is no arrangement to pay or an arrangement has not been kept for a minimum of 3 months.

- Are existing tenants and have rent arrears. To be considered for housing, the arrears must be less than 1 month's rent and a repayment arrangement must be in place for at least 3 months and continue to be paid.
- Knowingly give false information or if information is deliberately withheld.
- Receive an unsatisfactory landlord reference for a previous tenancy.
- Where applicants have been shortlisted for more than one property or are on offer for a property with another landlord or one of our existing voids

Each application will be considered on its merits. The bypassing of an applicant will be authorised by a senior member of staff.

### 3.8 Offers

Applicants will be invited to view a property. An offer of housing will always be made in writing and the applicant has 24 hours to accept or refuse the offer. If the applicant does not respond it will be treated as a refusal and updated as such on our systems. Where an applicant has a homeless priority, the relevant Council may remove this priority if they refuse a property.

### 3.9 Accepting an Offer

If the offer is accepted the applicant will be expected to sign up and start their tenancy within 3 working days of the property being ready to let. If an extension is required this will be considered at Homes for Life's discretion.

### 3.10 Matters to disregard when selecting tenants

We must disregard certain matters when we select tenants, these matters are as follows:

- the length of time that applicants have resided in our area;
- any debt related to a tenancy not owed by the applicant, as tenant or former tenant, or any housing debt since paid back;
- any outstanding liability of the applicant not attributable to the tenancy of a house, for example, council tax arrears. And this applies also to anyone else that it is proposed will reside with the applicant;
- the age of applicants unless (a) housing has been designed or substantially adapted for persons of a particular age or (b) the housing is for persons who are – or will be – in receipt of housing support services for a particular age group; and
- the income of applicants, including income of other household members.

3.11 The law permits us to take property ownership into account in assessing whether applicants have unmet housing needs- as defined at section 2.1 above. However, we **cannot** take home ownership in to account

- Where the owner cannot secure entry to the property
- Where it is probable that occupation will lead to abuse
- Where occupation of the property may endanger the health of the occupants and no reasonable steps can be taken by the applicant to prevent that danger

In such circumstances we may consider granting a Short Scottish Secure Tenancy Agreement if we assess the need as temporary. See section 6.2

3.12 Applications confirm whether applicants currently own or have recently owned residential property. Ownership does not prevent application, registration of interest, or shortlisting for our vacancies. However, prior to any offer, applicants who have confirmed ownership will need to demonstrate that their needs could not be met through other housing options available to them through that ownership. Offers of permanent housing will only be made where we are satisfied that such applicants have unmet housing needs. We may consider offers of temporary housing to assist in realising other housing options- see section 6.2

3.12 When letting houses, we must also take no account of whether or not an applicant resides in our area if she/he:

- is employed, or has been offered employment in our area;
- wants to move into our area to look for employment and we are satisfied that this is their purpose;
- wants to move into our area to be close to a relative or carer;
- has special social or medical reasons for being re-housed in our area; and
- wants to live in our area to avoid harassment or runs the risk of domestic abuse and wishes to move into the area.

3.13 In law, there are specific conditions that we cannot impose, namely that:

- applications must be active for a minimum period before considering applicants for housing (except in terms of our suspension policy);
- a judicial separation or divorce should be obtained, or a dissolution of a civil partnership or a decree of separation of civil partners be obtained; or
- applicants should no longer be living with, or in the same house, as someone else before they can be considered for housing.

3.14 When letting houses, we must also disregard any arrears of rent or other tenancy related debt which is less than one twelfth of the annual amount payable. For example, any rent arrears of less than one month will not stop an offer of housing being made. If an applicant is re-housed who owes us rent, we make appropriate repayment arrangements before the offer is made. This procedure is incorporated into our Debt recover policy.

If rent arrears are more than one month's rent, this will not stop an offer of housing being made if applicants:

- has agreed arrangements with the landlord for paying the outstanding liability **and**
- has made payments in line with that arrangement for at least three months; **and**
- is continuing to make such payments to repay the debt;

#### 4.0 INTERNAL TRANSFERS

- 4.1 Internal transfers occur where a current tenant moves to another one of the Company's properties. As with **HomeHunt** lets, allocations will be made principally on the basis best use of property, housing need and then date order of application. All applicants for an internal transfer will therefore be required to complete a transfer application form.
- 4.2 All current tenants will have the right to apply and be admitted to the Internal Transfer List. However, given the low turnover of stock, it is not possible to guarantee that any offers will be made, applicants will be made aware of this and asked to register with HomeHunt and register on the joint Mutual Exchange list.
- 4.3 Transfer applicants should also note that those with significant arrears may be suspended from the list, unless a repayment arrangement has been in place (and maintained) for at least three months.
- 4.4 Transfer applicants will have a pre-inspection of their property carried out before any offer of property is made and will be advised of any work to be completed by them to bring the condition of the property up to a satisfactory standard, acceptable to the Company. If the applicant is required to complete any work to fulfil their obligations as detailed in their Scottish Secure Tenancy Agreement, then their application will be placed on hold until this work has been completed and the Company notified.
- 4.5 Any rechargeable repairs including rental loss and associated administration costs arising from a transfer (for example where a decoration allowance needs to be offered to an incoming tenant or should the garden require maintenance) will be charged to the transferring tenant.
- 4.6 The Transfer list is reviewed annually. Tenants are required to confirm their current household circumstances and whether they wish to remain on the list for consideration of a transfer. Tenants who do not respond timeously to these reviews will be removed from the list.

## **5.0 MUTUAL EXCHANGE POLICY**

- 5.1 The Company supports the principle of mutual exchanges. Homes for Life tenants may arrange Mutual Exchanges:
  - With other Homes for Life tenants
  - With other registered social landlords in the United Kingdom
- 5.2 We share a mutual exchange list with local landlords including East Lothian Council and East Lothian HA called **East Lothian X-Changes**. The list is hosted on ELHA's website and you can search for a property here:  
<https://www.elha.com/mutex/search>
- 5.3 Generally a tenant will be expected to have held their tenancy with Homes for Life for a period of 12 months before requesting to effect a mutual exchange.
- 5.4 Conditions of the Company's Mutual Exchange Policy are as follows:

- A tenant wishing to exchange houses with another tenant must first obtain the Company's written consent to the exchange. This will not be unreasonably withheld. The person with whom they wish to exchange with must also obtain permission from his/her landlord who may have certain conditions regarding Mutual Exchanges.
- Exchanges will not normally be permitted where either landlord is taking legal action for recovery of possession.
- The Company will not normally approve a Mutual Exchange if that house has been designed or adapted for occupation by a person whose special needs require accommodation of the kind provided by the house and, if the exchange took place, there would no longer be a person with such special needs occupying the house.
- The Company will not normally approve a Mutual Exchange if the property would become overcrowded; or under occupied by more than one apartment.
- Both tenants wishing to exchange will be visited by the Company's Housing Officer. Any repairs required to bring the properties up to a reasonable standard must be remedied to the Company's satisfaction before permission to exchange will be granted.
- The Company will not carry out any redecoration for the incoming tenant or repairs that are a tenant's responsibility.
- If the exchange is approved the incoming tenant must occupy the property within a reasonable period. Failure to take up residence within one month will result in ending the tenancy of that property.
- In the event of any of the parties giving false or misleading information or deliberately withholding relevant information, the Company will take action for recovery of possession or to reverse the exchange through the courts.

5.5 These are the Statutory Grounds for carrying out a Mutual Exchange, however legislation also states it is quite appropriate for landlords to refuse an exchange on other grounds if these are reasonable, and that landlords may use their discretion to allow an exchange even where these statutory grounds exist.

## **6.0 THE TENANCY AGREEMENT**

6.1 The Housing (Scotland) Act 2014 introduced amendments to the Scottish Secure Tenancy (SST), and the majority of lets after 1<sup>st</sup> May 2019 will be allocated using the new tenancy agreement.

### **Short Scottish Secure Tenancy Agreements**

6.2 In certain limited circumstances, however, the Company may decide to let on the basis of the new Short Scottish Secure Tenancy (short SST).

6.3 The circumstances in which a short SST we may be use in summary are:

- By conversion of an existing Scottish Secure tenancy (SST) to a short SST where there has been either serious anti-social behaviour or persistent low level breaches of the SST
  - granting a short SST to new tenants, where the tenant, a household member or a visitor, has behaved antisocially within the last three years.
  - If an owner occupier has the resources to rectify their problems, or in time will be able to retake possession of their home, Section 8 of the 2014 Act gives landlords the ability to grant a SSST, to allow their housing needs to be met by a temporary let
- 6.4 Granting a short SST on the new Anti-Social Behaviour ground can be based on the antisocial behaviour of not just the prospective tenant but also -
- Any prospective joint tenant
  - Any visitor to a house currently occupied by the prospective tenant or by anyone who will be living with them
  - Anyone who might be living with the prospective tenant.
- 6.5 The type of Antisocial Behaviour, what evidence will be required and what other factors will be considered that would result in granting a short SST will be laid out in more detail in the Anti-Social Behaviour policy.

## **7.0 ALLOCATIONS OUTWITH THE ALLOCATIONS POLICY**

### **7.1 Local Lettings Plans**

We may designate certain areas or developments as requiring a local lettings plan. These are used to address specific issues such as:

- Anti-social behaviour
- Low demand
- High demand (e.g. to prioritise access for particular types of applicant ie in rural areas where local people struggle to get housing).
- Lack of essential workers or where skills are in short supply etc.

Each of these areas/developments will be let according to criteria determined by a local lettings plan which may be different from the criteria stated in the Allocations Policy. Each Local Lettings Plan will:

- run within relevant legislation
- be clear about why it is necessary to set it up and will show evidence/data to back up our decision
- have clear aims
- have effective monitoring to make sure the aims are being met
- be reviewed regularly

If we advertise a vacancy, where possible the advert will advise that a Local Lettings Plan is in place. We will advise the applicant and discuss it with them at the interview stage.

### **7.2 Sensitive Lets**

Will be used on an ad hoc basis where there have been previous problems within a property/stair/development and will be approved by a senior member of staff. The purpose of sensitive lets is to try and make sure a tenancy is sustainable for the applicant and to prevent management issues resulting from an unsuitable match.

An explanation of why it is a sensitive let and what type of tenant should be considered must be recorded on our Allocations Register

### **7.3 No Demand**

Where we have advertised and there is no demand for a property or we have exhausted shortlists; we may have to let out-with our normal allocation process. Any interested applicants be will assessed and properties let to those in the highest need.

### **7.4 Support**

We have a commitment to working with specialist housing support agencies and have entered into leases or protocol agreements with agencies including East Lothian Council's Homeless Section and Social Work Department. The same properties may be re-allocated by the agency or the location of a property may change over time. These referrals operate outside our Allocation Policy

## **8.0 SUCCESSION, ASSIGNATION, SUB-LETTING AND LODGERS**

**From 1 November 2019 there will be new notification and residency requirements that have to be met for subletting, assignation and adding a joint tenant to a tenancy. In each case the house must have been the tenant's only or principal home for at least 12 months immediately before the date of the written request.**

### **8.1 Succession**

8.1.1 Succession to a Scottish Secure Tenancy occurs when a tenant dies and their tenancy is inherited by someone left in the household. The law is very clear on who is eligible to succeed a tenancy (the **qualified person**) and also specifies the order in which each category is given priority.

8.1.2 Where there is a joint tenancy, the tenancy automatically remains with the other joint tenant(s), provided the house was their only or principal home at the time of the tenant's death.

8.1.3 In all other circumstances, the order of succession is:

- a) the tenancy may be inherited by the tenant's spouse or partner, providing that the house has been their only or principal home for 12 months at the time of the tenant's death
- b) if (a) does not apply, then the tenancy may be inherited by a member of the tenant's family, providing that it was their only or principal home for 12 months at the time of the tenant's death
- c) if neither (a) nor (b) applies, then the tenancy may be inherited by a carer, providing that the house was the carer's only or principal home at the time of the

tenant's death and that the carer had given up another only or principal home in order to move in with the tenant before his/her death

- 8.1.4 The type of tenancy given after succession is a full Scottish Secure Tenancy.
- 8.1.5 Where a house has been designed or substantially adapted for the use of someone with special needs, only spouses, partners, joint tenants or persons with similar special needs can succeed the tenancy. Others who would otherwise be eligible to succeed the tenancy will be offered alternative accommodation by the Company.
- 8.1.6 The tenancy may only be inherited twice under these provisions.

## **8.2 Assignment**

8.2.1 If the tenant wants to assign their tenancy (pass the tenancy to someone else), this needs our written consent as your landlord. Section 12(2) of the 2014 Act states:

- the house must have been your only or principal home during the 12 months immediately before you apply for written permission to pass your tenancy to someone else (previously there was no qualifying period); and
- the person you wish to pass your tenancy to must have lived at the property as their only or principal home for the 12 months before you apply; and
- the 12 month period cannot begin unless we have been told in writing that the person is living in the property as their only or principal home. We must have been told that by you, a joint tenant, or the person you now wish to pass the tenancy to.

8.2.2 We can refuse permission to assign a tenancy if it is reasonable for us to do that.

- (a) notice for recovery has been served.
- (b) an order for recovery of possession of the house has been made against the tenant
- (c) it appears to the landlord that a payment other than—
- (i) a rent which is in its opinion a reasonable rent, or
  - (ii) a deposit which in its opinion is reasonable, returnable at the termination of the assignment, subletting or other transaction and given as security for the subtenant's obligations for accounts for supplies of gas, electricity, telephone or other domestic supplies and for damage to the house or contents, has been or is to be received by the tenant in consideration of the assignment, subletting or other transaction,
- (d) consent would lead to overcrowding of the house in such circumstances as to render the occupier guilty of an offence under section 139 of the 1987 Act, or
- (e) the landlord proposes to carry out work on the house or on the building of which it forms part

(f) where the person to whom they wish to assign the tenancy has an outstanding Anti Social Behaviour Order, or has been evicted for anti social behaviour in the past 3 years.

Two new reasons when we can refuse an application for assignation have been added to the existing list of reasons at section 32 of the Housing (Scotland) Act 2001. These new reasons are:

(g) where we would not give the person you wish to pass the tenancy to priority under our allocations policy;

(h) where, in our opinion, the assignation would result in the home being under occupied

### **8.3 Sub-Letting**

8.3.1 Tenants may apply for written permission to sub-let their house to another person for a period of up to one year if they are going to be absent for a specific period on a temporary basis (for example, extended holiday or working/training/studying away for up to one year). The Company will not unreasonably refuse permission. Permission will not normally be granted where the tenant is the subject of legal action for recovery of possession or if the person to whom they wish to sub-let, or any member of their household, has an outstanding Anti Social Behaviour Order, or has been evicted for anti social behaviour in the past 3 years.

8.3.2 The Company must approve the tenancy agreement to be issued to the sub-tenant and the amount of rent to be charged.

8.3.3 The tenant will remain responsible for ensuring that all conditions of their tenancy are fulfilled throughout the period of the sublet.

8.3.4 The property must be occupied only by the person(s) approved by the Company which reserves the right to refuse an application to sub-let.

8.3.5 Where sub-letting is permitted, the tenancy remains in the name of the tenant and cannot be assigned to or be succeeded to by the sub-lessee. The tenant remains responsible for the rent, even although he/she may have come to an arrangement with the sub-lessee for reimbursement. The tenant must also ensure that the sub-lessee does not behave in a manner that would constitute a breach of the Tenancy Agreement (for example, anti-social behaviour) or the Company may take steps to remove the sub-lessee.

### **8.4 Lodgers**

8.4.1 Tenants may have lodgers, providing that the Company's prior written permission has been granted. The Company will not unreasonably refuse permission. Tenants should note, however, that they will not be permitted to have lodgers if overcrowding results, if the proposed lodger has an outstanding Anti Social Behaviour Order, or has been evicted for anti-social behaviour in the past three years.

8.4.2 We will ensure that the tenant understands the implications of having a lodger and how this might affect their benefit entitlement. During the lodging period the tenant remains responsible for the payment of rent and adherence to the tenancy agreement.

8.4.3 Lodgers have no rights of succession, nor can the tenant assign the tenancy to a lodger.

8.4.4 There is no legal relationship between the lodger and the Company. In the event that the presence of a lodger results in a breach of tenancy conditions, e.g. nuisance to neighbours, we will withdraw permission. We may take repossession action if the tenant fails to comply with our withdrawal of lodger permission.

## **9.0 LETS TO STAFF OR DIRECTORS OR MEMBERS OF THEIR FAMILIES**

9.1 The openness, accountability and propriety of Registered Social Landlords are regulated by the Scottish Housing Regulator, under the Housing (Scotland) Act 2010. Policy and practice must meet Regulatory Standards. This includes policy on Entitlements, Payments and Benefits for employees and directors and those closely connected to them.

9.2 An offer of a tenancy or lease to an employee, director or someone closely connected to them, is permitted provided:

- Their prioritisation and selection are in accordance with our Allocations Policy; and
- neither they or anyone closely connected to them is involved in any way or in any part of the allocation process; and
- any offer is pre-approved by the Board; and
- any tenancy is timeously recorded in the appropriate Register

9.2 In other words, the let would have been made to that person in any case as he/she exhibited the greatest housing need at the time the selection was made.

9.3 This is also covered by our Entitlements, Payments, and Benefits Policy.

## **10.0 MEASURING THE OUTCOMES OF THE POLICY**

10.1 This policy will be subject to regular reviews by the Board. In order to do this effectively, Directors must be able to assess how well the ways in which the policy has been operated accords with the agreed objectives.

10.2 The agreed framework for reporting to the Board is:

- Quarterly reports on exceptions and allocations over the previous quarter
- An annual report

10.3 Summary information from these reports will be disseminated through our newsletters and annual report. It will also be used as part of the consultative process. Other interested parties can also receive this on request.

## **11.0 QUERIES AND COMPLAINTS**

- 11.1 The Company is committed to providing a first class service to all of its tenants, applicants and potential applicants. The allocations process can, however, be complex and, occasionally, there can be differences of opinion where an element of judgement is required.
- 11.2 Every applicant therefore has the right to question any decision made with regard to his/her housing application.
- 11.2.1 Queries and complaints over the registration process and awarding of Priority Passes will be dealt with by Castle Rock Edinvar Housing Association and can be raised through their Complaints procedure.
- 11.2.2 Queries and complaints regarding allocation decisions should be directed to Homes for Life. The preferred way of doing this is for the applicant (or someone contacting us on his/her behalf) to raise the query informally with the member of staff concerned.
- 11.3 If the query or complaint cannot be dealt with informally to the applicant's satisfaction, they will be encouraged to use Homes for Life's formal Complaints procedure.
- 11.4 If the applicant is still unhappy, there is a final recourse to the Scottish Public Services Ombudsman – please refer to the Company's Complaints Procedure.

## **12.0 CONFIDENTIALITY AND INFORMATION SHARING**

- 12.1 Both Homes for Life Housing Partnership and Castle Rock Edinvar Housing Association are registered data controllers have undertaken to comply with the data protection requirements of General Data Protection Regulation (EU) 2016/679 ("the GDPR"); and associated Acts.
- 12.2 Information given by an applicant, or obtained from a third party in accordance with this policy will be held securely both by the Company and the Association and used solely for the purpose of operating the allocations system and for its regulatory reporting requirements.
- 12.3 The Company is permitted to process Personal Data on behalf of data subjects provided it is doing so on one of the following grounds:
- Processing with the consent of the data subject
  - Processing is necessary for the performance of a contract between the Company and the data subject or for entering into a contract with the data subject;
  - Processing is necessary for the Company's compliance with a legal obligation;
  - Processing is necessary to protect the vital interests of the data subject or another person;
  - Processing is necessary for the performance of a task carried out in the public interest or in the exercise of the Company's official authority; or
  - Processing is necessary for the purposes of legitimate interests

12.4 The information given on the Homehunt registration will be seen by all the partner landlords who will comply with the requirements of the GDPR

### **13.0 USING DISCRETION**

13.1 Irrespective of how well an allocation policy reflects local housing need, there will always be occasions when a landlord will need to use its discretion and make an allocation out with the core policy . Under such circumstances, Homes for Life reserves the right to use discretion where the policy does not meet the need for an applicant to move or be housed urgently or under other exceptional circumstances not covered by the policy.

13.2 Use of such discretion will be approved by senior manager and reported to the Board at the next appropriate meeting.

### **14.0 REVIEW**

14.1 The outcomes of this policy will be reviewed every year and this policy will be reviewed not later than May 2024, or earlier as required, and then every 5 years thereafter.

## Appendix 1

### How HomeHunt Works -

#### Castle Rock Edinvar Allocation Policy Excerpt –

**The new Castle Rock Edinvar Policy will be inserted here as soon as it becomes available**

Within East, West and Midlothian we operate the HomeHunt web choice based lettings system. The aim of this is to make the process of choosing a new home as simple as possible by advertising our vacant properties and giving applicants the opportunity to choose and bid for the homes they want.

Priority Passes are in place to take account of housing need. The Lettings & New Tenancy Team are available for assistance and advice.

#### Registration

Applicants for our properties in East, West and Midlothian must register on-line by logging onto [www.homehunt.info](http://www.homehunt.info) before they can apply for properties. This process also allows applicants to apply for Priority Passes. Paper forms are also available from our Head Office in Edinburgh, or by telephoning or emailing the Lettings & New Tenancy Team (Please see contact details below)

Once on-line registration is complete, the Lettings & New Tenancy Team will verify each applicant made. Applicants can apply for properties once verification is complete.

#### Assessment of Need

Priority passes are awarded on 3 levels, Gold, Silver and Bronze. There are 5 categories in which a pass can be awarded:

Priority Pass Type	Gold	Silver	Bronze
Housing Circumstances (homelessness)	*	*	
Medical	*	*	
Personal Circumstances	*	*	*
Overcrowding/Under occupying		*	*
Condition of Property		*	*

Applicants should fill in all the pass application forms that apply to their current situation. If they qualify for more than 1 pass, the highest pass level will be awarded.

A Priority Pass cannot be used until it has been assessed and awarded by us. The Priority Pass will be valid for future bids and will not be back dated.

Passes can be limited to specific areas or types of property. This can be limited either by us or the applicant. E.g. we may limit a Gold medical pass to ground floor only or to developments with a lift. If the pass is 'limited' it means it is only valid for properties that meet the 'limited' criteria. Applicants may still apply for properties out with their 'limited' criteria but the priority pass will not apply.

Full details on assessment of need, limiting passes etc. can be found in the HomeHunt guide and priority pass pack.

## **Housing Circumstances (Homeless or threatened homeless)**

**A Gold pass is awarded if:** the local Council has carried out a homelessness assessment and has accepted they have a duty to re-house as the person is homeless. A copy of the Council's award letter is required before the Gold pass will be awarded.

**A Silver pass will be awarded where:** someone has not been assessed as homeless by the Council but they are in a homeless situation and have been given Notice to quit (evidence will be required).

## **Medical**

**A Gold pass is awarded where:** the medical condition or illness makes it impossible for the applicant to remain in or return to their current accommodation.

**A Silver pass is awarded when:**

- The medical condition or illness is made worse in the current accommodation or if mental illness severely restricts the ability to continue to live in the current accommodation.
- An applicant currently living in adapted accommodation (which they no longer require), wishes to move to alternative accommodation.

A GP or other health care professional's opinion may be sought, if necessary. If an applicant requests a letter from their GP, they may be charged for this.

Priority may not be awarded if the current accommodation can be adapted to meet the needs of the person with the medical condition.

## **Personal Circumstances**

This category takes account of personal circumstances such as violence, harassment, support needs, need to be nearer work or study, isolation etc.

**A Gold pass is awarded where:** an applicant is suffering from violence (ie physical, mental, domestic, sexual abuse) in their current home or they are unable to return home because of this. Supporting evidence may be required.

**A Silver pass is awarded where:**

- Harassment is being experienced (ie threatening behaviour, racial harassment).
- An applicant needs to move to give or receive support for daily care in order to maintain personal comfort ie bathing or taking medication. (This will only be awarded where there is no-one already living locally who could reasonably provide such support). A pass will be limited to the area where the support is required.

**A Bronze pass is awarded where:**

- There are problems with anti-social behaviour ie noise, vandalism.
- There is a need to move closer to work, study or children on access and the applicant has to travel more than 10 miles each way and there is no reasonable means of transport.
- Where applicants, age over 65, would benefit from the company and support of living in Retirement housing and currently do not live in Retirement housing.
- Applicants are isolated from local amenities ie bus stop, general shop, post office.

- A move is required due to a relationship breakdown, this includes where applicants are staying with family and friends and have been asked to leave (evidence will be required).
- Where an applicant can no longer afford to stay in private rented accommodation. ie is spending 50% or more of their net income on rent (evidence required).

### **Overcrowding/under-occupation**

An award will be made in this category if an applicant's current home is overcrowded and there are more people in their household than there is accommodation for.

Alternatively, a pass will be awarded where someone is living in accommodation that is too big for them and they wish to move to a smaller property.

**Overcrowding** – Assessment will be made following the occupancy levels below:

<b>Size of family</b>	<b>Number of bedrooms</b>
1 person/couple	1 or 2 bedrooms
Adult/couple with 1 child	2 bedrooms
Adult/couple with 2 children*	2 or 3 bedrooms
Adult/couple with 3 or more children*	3 or 4 bedrooms

\*Depending on the age and sex of the children:

- Two mix sex children under 10 years of age can share a bedroom
- Two same sex children under 16 years of age can share a bedroom

**A Silver pass will be awarded where:**

- 2 or more additional bedrooms are required or
- applicants are living in 1 bedroom accommodation and have to share the bedroom with a child under the age of 16

**A Bronze pass will be awarded where:** 1 extra bedroom is needed.

### **Under-occupation**

**A Silver pass will be awarded where:** applicants currently living in larger accommodation, (having two or more spare bedrooms), want to move to a smaller property.

**A Bronze pass will be awarded where:** applicants currently living in larger accommodation, (having one spare bedroom), want to move to a smaller property.

### **Condition of Property**

If a property is in a poor condition, through no fault of the applicant, or is lacking facilities a pass will be awarded based on the number of facilities lacking. The following factors will be taken into consideration:

- Structural problems
- Rising/penetrating damp
- No piped water supply
- No inside WC

- No working bath/shower
- Major repairs required
- No central heating
- No hot water
- No cooking facilities

**A Silver pass will be awarded where:** 3 or more of the above factors are lacking.

**A Bronze pass will be awarded where:** 1 or 2 of the above factors are lacking. Supporting evidence may be required.

### **Change of Circumstances**

Applicants must let us know about any change in their circumstances. They can do this by logging into their Homehunt account and providing the information, we will then update the system; or they can contact the Lettings & New Tenancy Team directly.

### **Cancellation of an Application**

An application will be cancelled:

- If an applicant requests, in writing, to be removed from the waiting list
- If the applicant fails to reply to communications from us regarding a review of the waiting list or if correspondence is returned by the Royal Mail marked 'gone away.'
- On the death of an applicant.

Notification of the cancellation of an application will be sent to the last known contact address of the applicant.

### **Suspensions**

Anyone over the age of 16 can apply for housing, however, in some cases applicants may be suspended (or put 'on hold') from being housed. Our aim, in these circumstances is to be strict but fair. Examples of where we may suspend an application are:

- A history of anti-social behaviour (ASB), e.g. where the applicant has been evicted for ASB or has been subject to an anti-social behaviour order in the past 3 years.
- Involvement in criminal activity or illegal drug use or supply.
- Rent arrears, including re-chargeable repairs (amounting to more than 1 month's rent) where there is no arrangement to pay or an arrangement is in place but has not been kept for a minimum of 3 months.
- Where existing tenants are in rent arrears, (including re-chargeable repairs), they will not be considered for a transfer unless the arrears are less than one month's rent and there must still be a repayment arrangement in place which has been kept for at least 3 months.
- Abusive or threatening behaviour towards staff.
- An applicant has knowingly given false or misleading information to gain a tenancy.
- Housing support is required but there is no support package in place.

- More information is required to assess an application.
- An applicant has requested their application be suspended for a valid reason.

In some instances the suspension or application 'on hold' will last a short period of time (e.g. more information required or waiting for a support package to be put in place). Others will be in force for a longer period (e.g. false or misleading information, applications will be suspended for a year). Where an application is suspended the applicant will be advised of the decision in writing, the duration of the suspension and what action they are required to take to have the suspension lifted. All applicants will be advised they have the right to appeal.

### **Applying for housing**

Once registered and verified, applicants can apply for any properties that are advertised as long as the property is suitable e.g. no overcrowding would result or there are no age restrictions on who can apply, for example if the advert states the property is suitable for someone age 65 or over who requires Retirement housing or age 60 or over for amenity/older person housing.

There is no limit on the number of properties that can be applied for, if applicants qualify for more than one offer at the same time, we will assume that the property applied for first is their first choice and so on.

To apply for specific properties applicants can bid directly on-line, contact us by post, telephone or in person at one of our offices. The applicant's registration number and the property address are required and this must be received before the closing date stated on the advert.

### **Advertised Properties**

Our properties are advertised on the following website ([www.homehunt.info](http://www.homehunt.info)).

The closing date for all adverts is each Thursday at 11am. On request each week, we can produce information sheets detailing properties being advertised.

### **Bypass**

There may be circumstances where we have to bypass applications for housing. We are unlikely to offer accommodation if applicants:

- Require more assistance or support than we (or associated agencies) are able to provide. The requirements of the Equality Act 2010 will be taken into account when this assessment is made and advice and guidance about suitable housing will be given. Any decision will be approved by a senior member of staff and recorded on the applicant file;
- Require support but there is no support package in place to allow them to cope with a tenancy.
- Are a former Castle Rock Edinvar tenant who has been evicted by us, or is a member of the former tenant's household whose actions or behaviour contributed to the decision to evict. (If the eviction was for rent arrears and an arrangement to repay the

arrears has been maintained for a minimum of three months and is continuing, the applicant may be considered for housing);

- There is clear evidence from an official source that the applicant is or has been guilty of serious anti-social behaviour and it is likely that housing the applicant will cause annoyance, harm or risk to our tenants, staff or others living around or about;
- Have rent arrears or other tenancy related debts and there is no arrangement to pay or an arrangement has not been kept for a minimum of 3 months.
- Are existing tenants and have rent arrears. To be considered for housing, the arrears must be less than 1 month's rent and a repayment arrangement must be in place for at least 3 months and continue to be paid.
- Knowingly give false information or if information is deliberately withheld.
- Receive an unsatisfactory landlord reference for a previous tenancy.
- Where applicants have been shortlisted for more than one property or are on offer for a property with another landlord or one of our existing voids

Each application will be considered on its merits. A list of reasons for applicants being bypassed for an offer is contained in our bypassing procedure. The bypassing of an applicant will be authorised by a senior member of staff.

### **Cancellation of an Application**

An application will be cancelled:

- If an applicant requests, in writing, to be removed from the waiting list
- If the applicant fails to reply to communications from us regarding a review of the waiting list or if correspondence is returned by the Royal Mail marked 'gone away.'
- On the death of an applicant.

Notification of the cancellation of an application will be sent to the last known contact address of the applicant.

### **Complaints**

All applicants have the right to complain if they consider that their allocation, transfer and affordable housing application has not been handled properly. Our Complaints leaflet is available free of charge at any of our offices and is on our website: [www.castlerockedinvar.co.uk](http://www.castlerockedinvar.co.uk)

Lettings & New Tenancy Team Contact Details:

- Tel: 0131 657 0600
- Email: [crelntt@castlerockedinvar.co.uk](mailto:crelntt@castlerockedinvar.co.uk)

## APPENDIX 2

### Homes for Life's OCCUPANCY LEVELS

The following guidelines are used both in determining the level of overcrowding and the occupancy requirements of the applicant.

<u>Household Composition</u>	<u>Requirements</u>
Single Person	one bedroom
Couple	one or two bedrooms (applicants elect)
Couple with one child or single parent with one child	two bedrooms
*Couple or single parent 2 children	two or three bedrooms (dependant upon age of children)
Couple or single parent with 3 or more children	three, four or five bedrooms (dependant upon age of children)
Single/couple or family where a residential carer is required for over 2 nights per week	one extra bedroom
Single/couple or family who have access to non resident children of not less than two nights per week or eight weeks per year (proof of access will be required)	one extra bedroom

The following points will be taken into account in determining occupancy requirements

\*Two children, one of whom is over eight years of age and of the opposite sex are assumed to require separate bedrooms

\*Children of the same gender are assumed to be able to share the same bedroom up to the age of 15.

\*A living room should not have to be used as a bedroom.

\*In certain cases, an adult/child's medical condition will mean that there is a requirement for sole use of a bedroom. (documentary evidence will be required)

\*No more than two people should share a bedroom

\*A boxroom or a room without natural light is not counted as a bedroom

\* If a bedroom cannot accommodate two beds and is being used by two people.

**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 Homes for Life is to specify the arrangements for the nomination of re-housing applicants **AND** referrals under Section 5 of the Housing (Scotland) Act 2001.

The terms and conditions of the agreement will be reviewed annually at a review meeting.

**◆ 2. PRINCIPLES**

East Lothian Council and Homes for Life aim to work together to:

- ◆ Address and assist in reducing homelessness 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 Homes for Life 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 Homes for Life, with the exception of Workshop Homes.

Homes for Life is committed to assisting East Lothian Council to fulfil its strategic responsibility to provide for those with particular needs within East Lothian. Details of available properties will be provided to appropriate personnel within East Lothian Council who can provide assistance to those with particular needs in identifying and applying for available properties.

**◆ 4. PUBLICITY**

East Lothian Council will provide information on Housing Company s to all housing and transfer applicants.

This information will include details of the differences between Council and Company tenancies.

Homes for Life will advertise all available properties at its office, on its website, in the local press, on the Homehunt website and will provide information to appropriate Support Providers including the Council's Homelessness Team. East Lothian Council will provide a link from it's website to the Homehunt website.

#### ◆ 5. LIAISON ARRANGEMENTS

Both organisations will have named officers with contact telephone numbers with day-to-day responsibility for nominations and referrals and will confirm any changes to these arrangements

Any changes to these named contacts shall be notified in writing. In the event of sickness or other periods of absence, there will be a delegated substitute to assume these roles.

#### ◆ 6. NOTIFICATION OF ALLOCATION RESULTS

**Homes for Life will notify East Lothian Council of all allocations within two working days of the successful applicant accepting the property.**

#### ◆ 7. 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.

#### ◆ 8. PERCENTAGE OF VACANCIES TO PRIORITY HOMELESS APPLICANTS

Homes for Life will offer 50% of their vacant properties, net of transfers, to homeless applicants that East Lothian Council has a duty to house. Section 5 referrals will normally be contained within this 50% quota, but in exceptional circumstances, with the agreement of both parties, a section 5 referral may be made out-with the agreed quota.

This protocol is void-led and aims to meet the needs and aspirations of prospective tenants.

In calculating the total number of properties for which allocations to priority homeless applicants will be made, the following shall be excluded:

- ◆ voids created through a tenant moving to another landlord where a reciprocal agreement exists
- ◆ voids created by the death of a tenant where there is a statutory successor
- ◆ decants

## **9. NEW BUILD DEVELOPMENTS**

In order to ensure that homeless applicants are allowed the same access to newly built, rehabilitated or acquired property as other applicants, Homes for Life will contact East Lothian Council 12 weeks before the anticipated completion/acquisition date. The 50% quota will apply and the parties will agree whether the properties are to be advertised or whether nominations and/or section 5 referrals are to be provided. A flexible approach will be adopted which may result in advertising some properties and allocating others via nomination/referral.

## **◆ 10. NOMINATIONS**

Homes for Life will advertise vacant properties under the Choice Based Lettings system, Homehunt. A sufficient number of vacancies will state that applicants with a Platinum Priority Pass, awarded by East Lothian Housing Association for homelessness, are eligible to apply. Homeless applicants can apply for all properties but can only use their Platinum Priority Pass for the stated 50% of vacancies.

Homes for Life will advertise vacant properties, , on the Homehunt website, as well as local housing offices and libraries etc. The adverts will run for one week in the press and ten days everywhere else before the closing date.

In the unlikely eventuality that no Homeless applicants apply for an advertised property for which a Platinum Priority Homeless Pass is valid, Homes for Life will contact East Lothian Council by email to request a homeless nomination using the nomination request form (appendix 1).

East Lothian Council will take cognisance of Homes for Life's Allocation Policy when making the homeless nomination, using the standard nomination form (appendix 1). The form will be emailed to Homes for Life within three working days of the request being received. A nomination will be requested only in the event that no applicant with a Platinum Priority Pass, awarded for homelessness, who also meets the "best use" criteria, applies by the closing date.

### **Failure of Nominations**

If East Lothian Council fails to provide the requested nomination within three working days, Homes for Life shall remind the Council of the outstanding request by email. Should East Lothian Council fail to respond within two working days of the reminder, Homes for Life shall count this as a failed nomination. For monitoring purposes failed nominations will count towards the 50% homeless quota. In the event that no priority homeless applicant applies by the closing date and the nomination has failed, Homes for Life will allocate the property to the highest placed ordinary applicant. Failed nominations will be reported to East Lothian Council as part of the quarterly performances statistics provided on the nominations process.

### **Withdrawal of Property for Nomination**

In the event a tenant withdraws their notice or an emergency such as fire, flood or immediate re-housing required due e.g to harassment, Homes for Life reserves the right to withdraw a nomination request or advertised property. In this event, the property will not count towards

the 50% allocation to homeless applicants and a suitable property will be substituted when available.

## **11 REFUSAL OF NOMINATIONS**

Homes for Life may reject East Lothian Council's nomination where

- ◆ The nominee is not eligible for re-housing under the Company's Homehunt Allocations policy because their registration is on hold as a result of the nominee providing false or misleading information in respect of his/her registration.
- ◆ 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 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 to end a tenancy or, in the case of hostel type accommodation, the applicant was asked to leave because of serious misconduct. In coming to a decision to reject a nomination on this ground, Homes for Life would look at the circumstances and elapse of time since the tenancy or accommodation 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 Company 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.

Before refusing a nomination Homes for Life will first contact East Lothian Council to see whether differences can be reconciled, or solutions found. Where agreement cannot be reached, Company Homes for Life shall proceed in line with their policy position.

## **◆ 12. SECTION 5 REFERRALS**

Section 5 of the Housing (Scotland) Act 2001 places statutory duties on housing Company s and other registered social landlords to provide accommodation to homeless people if requested to do so by the local authority. Any Section 5 referral made by East Lothian Council to Homes for Life will where possible be contained within the 50% homeless quota, but it is accepted that in exceptional circumstances a section 5 referral may be made out-with the quota

Before Homes for Life advertises a vacant property for Homeless Platinum Pass holders, they will contact the named officer at East Lothian Council by email with details of the vacancy. East Lothian Council will respond by email on the same day, or within one working day, if they wish to make a Section 5 referral to the vacant property. If East Lothian Council makes a Section 5 referral the property will not be advertised but will count towards the priority homeless quota except in exceptional circumstances.

The Council will, with the applicant's written consent, provide relevant information concerning the applicant's housing history and any other matters that it would be reasonable

for a prospective landlord to take into consideration, particularly any specific requirements and/or support needs. Where the applicant has not granted permission for such information to be provided, Homes for Life will be informed of the refusal.

The Council will also provide any other information of which Homes for Life should be aware in an attempt to ensure that the tenancy can be sustained and any potential issues relating to the health and welfare of the applicant or 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 Homes for Life to comply with any subsequent formal request for accommodation for the household concerned.

East Lothian Council will make a formal referral by email using the Section 5 Referral Form **(appendix 1)**.

The Company will confirm receipt of the request within one working day.

Prior to formally responding, Homes for Life will notify the Council of any reason for not wishing to comply that was not apparent from earlier discussions and/or 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 Company will give its formal response within 5 working days of receipt of the referral. Prior to responding, the Company may contact the Homelessness Officer for further information or to provide new information. Such information may result in extending the time for the Company to carry out its part of the procedure.

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

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

If the Company refuses the referral stating "good reason" not to comply, the Company will specify its reasons for non-compliance. The Council will consider the Company's response and reply within 5 working days. East Lothian Council may respond by

- ◆ Discussing the Company's response and reviewing its request
- ◆ Withdrawing the request
- ◆ Instigating the commencement of a period of ten working days within which the parties must either reach agreement or submit to arbitration.

If the Company makes an allocation to a Section 5 referral, the allocation will be treated the same as an allocation to a homeless applicant and East Lothian Council will be notified if the property is subsequently refused.

### **13. REJECTION OF SECTION 5 REFERRALS**

Homes for Life will 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 where the applicant is fleeing harassment as defined by the Housing(Scotland) Act 2001 and/or domestic violence
- ◆ the person concerned caused serious management problems, which resulted in legal action being taken or, in the case of hostel type accommodation, the applicant was asked to leave because of serious misconduct. In coming to a decision to reject a referral on this ground, Homes for Life would look at the circumstances and elapse of time since the tenancy or accommodation 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 Company 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 Company 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 15 will be implemented.

### **14. REFUSAL OF AN OFFER BY A HOMELESS APPLICANT**

Homes for Life may offer available properties to homeless applicants who have either applied direct 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 Company and refuses the offer, Homes for Life will advise the applicant to contact the Council and notify East Lothian Council of the refusal and the reasons by email or telephone on the day of the applicant's refusal.

In these circumstances, East Lothian Council's Homelessness Team will need to investigate and decide whether the re-housing duty towards the applicant has been discharged. The Company shall hold the property for the applicant until the Council has completed such investigations. East Lothian Council will normally notify The Company of the outcome within 2 working days.

### **◆ 15 DISPUTES AND ARBITRATION**

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 non-compliance with a request to re-house and to sections 11 and 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 Homes for Life. 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 7 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 Company 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 the Scottish Housing Regulator.

## 16. MONITORING NOMINATIONS AND REFERRALS

The Company will , notify the Homelessness Officer of the outcome of referrals and nominations within one working day.

Homes for Life will also provide East Lothian Council with information on its stock numbers by type, area and apartment size and turnover by providing the relevant pages of the Annual Return on the Charter (ARC) submitted annually to the Scottish Housing Regulator.

On a quarterly basis the Company will forward to the Council a summary of;

- ◆ total number of overall lets by the Company , by source category (i.e. both direct and nominated homeless and all other applicants.
- ◆ total number of Section 5 referrals and their outcome.

On a quarterly basis the Council will supply the Company with total figures for both the period in question and, cumulatively for the year so far summarising;

- ◆ the total number of homeless acceptances for permanent accommodation, broken down by area.
- ◆ an analysis of referrals made to each RSL within the council area and their outcome.

This data will enable all parties to monitor against the 50% target agreed within the protocol.

A formal annual review meeting will be held to discuss performance, how any shortfalls in the quota of nominations should be addressed, and any proposed alterations to the agreement.