

ALLOCATION SCHEME

**In accordance with Section 22 of the Housing (Miscellaneous Provisions) Act 2009 and Social Housing Allocation Regulations 2011 (S.I. No. 198 of 2011)**

**Effective from 13<sup>th</sup> June 2011**

**1.0 Definitions and Interpretation**

In this Scheme, unless the context otherwise requires:-

- 1.1 A reference to an Act shall be construed as a reference to that Act as amended, adapted or extended by or under any subsequent legislative enactment.
- 1.2 **‘anti-social behaviour’** shall have the same meaning as provided in Section 1(1) of the Housing (Miscellaneous Provisions) Act, 1997. It includes either or both of the following, namely -
  - (a) *the manufacture, production, preparation, importation, exportation, sale, supply, possession for the purposes of sale or supply, or distribution of a controlled drug (within the meaning of the Misuse of Drugs Acts, 1977 and 1984),*
  - (b) *any behaviour which causes or is likely to cause any significant or persistent danger, injury, damage, loss or fear to any person living, working or otherwise lawfully in or in the vicinity of a house provided by a Housing Authority under the Housing Acts, 1966 to 1997, or a housing estate in which the house is situate [or a site] and, without prejudice to the foregoing, includes violence, threats, intimidation, coercion, harassment or serious obstruction of any person.*
- 1.3 **‘Approved Body’** means a body standing approved of for the purposes of Section 6 of the Housing (Miscellaneous Provisions) Act, 1992.
- 1.4 **‘dwellings’** shall mean dwellings provided under the Housing Acts 1966 to 2009 or Part V of the Planning & Development Act 2000 of which Cork City Council is owner or, of which Cork City Council is not the owner and which are provided under a contract or a lease between Cork City Council and the owner concerned, including rental accommodation availability agreements, and dwellings owned and provided by Approved Bodies to which assistance is given under Section 6 of the Housing (Miscellaneous Provisions) Act 1992 for the purposes of such provision.

- 1.5 **‘emergency’** shall be an emergency decided as such by the Director of Housing and Community Services, Cork City Council or his nominated official whose decision in this regard shall be final.
- 1.6 **‘homeless’** shall have the same meaning as provided in Section 2 of the Housing Act, 1988 so that a person shall be regarded by Cork City Council as being homeless for the purposes of this Scheme if:-
- (a) there is no accommodation available which, in the opinion of Cork City Council, he, together with any other person who normally resides with him or who might reasonably be expected to reside with him, can reasonably occupy or remain in occupation of, or
  - (b) he is living in a hospital, county home, night shelter or other such institution, and is so living because he has no accommodation of the kind referred to in paragraph (a), and he is, in the opinion of Cork City Council, unable to provide accommodation from his own resources.
- 1.7 **‘The 2009 Act’** shall mean the Housing (Miscellaneous Provisions) Act 2009 No. 22 of 2009 as amended, adapted or extended by or under any subsequent legislative enactment.
- 1.8 **‘overcrowding’** shall have the same meaning as assigned to it by Section 63 of the Housing Act, 1966 so that a dwelling shall be deemed to be overcrowded at any time when the number of persons ordinarily sleeping in the dwelling 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 purposes of calculating free air space), and
- ‘overcrowding’** shall be construed accordingly.
- 1.9 **‘Scheme’** shall mean this Allocation Scheme.
- 1.10 **‘unfit’** shall have the same meaning as assigned to it by Section 66 of the Housing Act, 1966.
- 1.11 Any reference to a Clause by number is a reference to that numbered clause as it appears in this Scheme.
- 1.12 The headings to Clauses of this Scheme are for ease of reference only and are not to be used for purposes of construing this Scheme.

- 1.13 Where the context so admits or requires the masculine includes the feminine and singular includes the plural.

## **2.0 Scope**

The purpose of this Scheme is to provide a means for determining the priority to be given in the allocation under Section 22 of the 2009 Act of dwellings (or particular categories of dwellings) to households referred to in Section 22(3) of the 2009 Act (or to particular classes of such households) and assessed by Cork City Council as being qualified for social housing support in accordance with Section 20 of the 2009 Act and associated regulations and to households already in receipt of social housing support that are approved for transfer to other dwellings or to purchase a dwelling under the incremental purchase arrangements set out in part 3 of the 2009 Act as the case may be. Such persons shall include persons who are-

- (a) homeless;
  - (b) travellers;
  - (c) living in accommodation that is unfit for human habitation or is materially unsuitable for their adequate housing;
  - (d) living in overcrowded accommodation;
  - (e) sharing accommodation with another person or persons and who, in the opinion of the City Council, have a reasonable requirement for separate accommodation;
  - (f) are young persons leaving institutional care or without family accommodation;
  - (g) are in need of accommodation for medical or compassionate reasons;
  - (h) elderly;
  - (i) in accommodation, the extent to which it does not meet their requirements, arising from the enduring physical, sensory, mental health or intellectual impairment of a household member;
  - (j) not, in the opinion of the City Council, reasonably able to meet the cost of the accommodation which they are occupying or to obtain suitable alternative accommodation.
- 2.1 Provisions pertaining to the allocation of dwellings including those granted by way of mutual exchange, on succession and under the downsizing scheme for the elderly are also included in this Scheme.
- 2.2 All allocations of dwellings shall be made in accordance with this Scheme.
- 2.3 Cork City Council may from time to time review this Scheme and revise it by way of amendments or make a new scheme. The making of a new scheme is a reserved function.

### **3.0 General**

- 3.1 A person applying for the allocation of a dwelling under this Scheme must have reached the age of 18 years on or before the date of any allocation and must have a legal right to reside in the State.
- 3.2 Cork City Council, in applying the terms of this Scheme to a household, may disregard the accommodation that household is occupying where Cork City Council has reason to believe that he has deliberately, or without good and sufficient reason, done or failed to do anything (other than an action or omission in good faith) in consequence of which the accommodation he is occupying is less suitable for his adequate housing than other accommodation which it would have been, or would be, reasonable for him to occupy.
- 3.3 Cork City Council may from time to time, as it considers fit, reserve for particular categories of persons a particular number or proportion of dwellings becoming available for letting and where a particular number or proportion of dwellings becoming available for letting is set aside or designated for a particular category or categories of persons, priority shall be accorded to persons of that particular category in the allocation of those dwellings. The reservation of dwellings in this regard shall be by way of Manager's Order. Without prejudice to the foregoing Cork City Council may at its discretion reserve dwellings as aforesaid for the following purposes:-
- (a) allocation to elderly or older persons, persons with a physical, sensory, mental health or intellectual impairment, young persons leaving institutional care, persons in need of accommodation for medical or compassionate reasons or any other class or classes of persons which Cork City Council at its discretion considers it prudent to provide accommodation for;
  - (b) allocation to households transferring from other forms of social housing support;
  - (c) for particular forms of tenure including but not limited to Incremental Purchase Schemes.
- 3.4 Cork City Council may disregard the order of priority given to a household under an allocation scheme where the household is being provided with social housing support:
- (a) in a dwelling let to the household under a Rental Accommodation tenancy agreement having been assessed under Section 20 (3) of the Housing Act 2009, or
  - (b) arising from specified exceptional circumstances, including displacement by fire, flood or any other emergency, development, redevelopment or regeneration of an area by the housing authority, or exceptional medical or compassionate grounds, or under the Down-sizing Scheme for the Elderly.

3.5 Cork City Council may refuse to make or defer the making of a letting of a dwelling as set out in Clauses 5, 6, 7 and 8 of this Scheme to a person where:

- (a) Cork City Council considers that the person is or has been engaged in anti-social behaviour or that a letting to that person would not be in the interest of good estate management, or
- (b) the person fails to provide information, including information relating to persons residing or to reside with that person, which is requested by Cork City Council and which Cork City Council considers necessary in connection with an application for the letting.

### 3.6 **Areas of Choice**

A person applying in the first instance for allocation of a dwelling or applying to transfer from other forms of social housing support may apply to be considered for accommodation in any of Cork City Council's housing areas. The total number of areas of choice specified by the household at any time shall not exceed three. The household may not change an area of choice within the period of twelve months following notification of that area of choice to the City Council. Where the household notifies the City Council that it no longer wishes to receive social housing support in an area of choice that it previously specified, the household may not, within the period of twelve months following such notification, change its preferences so as to specify that area of choice again.

### 3.7 **Refusal Policy**

Following the coming into force of this Scheme, where a qualified household refuses two reasonable offers of the allocation of different dwellings in any continuous period of one year commencing on the date of the first refusal, the said household shall not, for the period of one year commencing on the date of the second refusal, be considered by any housing authority for the allocation of a dwelling to which section 22 of the Act of 2009 applies and the latter period shall not subsequently be reckonable in any way for the purposes of determining the relative priority of that household for a dwelling allocation. For the purposes of this Regulation, an offer of a dwelling allocation by a housing authority shall be deemed to be reasonable where the allocation of that dwelling would, in the opinion of the authority, meet the accommodation needs and requirements of the qualified household concerned and, except in the case of a dwelling allocation offered under section 22(7)(b) of the Act of 2009, the dwelling is situated in an area of choice specified by the household in accordance with Regulation 8 or 9 of the Social Housing Assessment Regulations 2011.

3.8 The final decision in relation to any allocation of a dwelling will be made by the Director of Housing and Community Services in pursuance of the authority delegated to him by Order of the City Manager. In making this

decision, the Director shall have regard to all information furnished by the applicant in support of his application together with all other information relevant thereto known to the Director including the applicant's waiting time on Cork City Council's housing or transfer list, stated preference area(s), family size and type of dwelling required and available for letting.

#### **4.0 Eligibility for Social Housing Support**

The eligibility criteria for applicants for allocation of dwellings must comply with the eligibility criteria as set out in the Housing Act 1966 – 2009, the Social Housing Assessment Regulations 2001 and the Social Housing Assessment (Amendment) Regulations 2011.

#### **5.0 Priority for determining Social Housing Support**

5.1 In determining a household's need for social housing support, Cork City Council shall have regard to the provisions of the Housing Acts 1966 - 2009 and Social Housing Assessment Regulations 2011 S.I. No. 84 of 2001 and Social Housing Assessment (Amendment) Regulations 2011 S.I. No. 136 of 2011 and the following matters relating to the household's current accommodation. Allocations will be made in the following order of priority having taken into account all the relevant information furnished by the applicant in support of his application together with all other information relevant thereto known to the Director including the applicant's waiting time on Cork City Council's housing list, stated preference area(s), family size and type of dwelling required:

- whether the current accommodation is an institution, emergency accommodation or a hostel,
- whether the current accommodation is fit for human habitation having regard to the matters set out in the Second Schedule to the Housing Act 1966,
- whether the current accommodation is overcrowded,
- the extent to which the current accommodation meets any accommodation requirement arising from the enduring physical, sensory, mental health or intellectual impairment of a household member,
- whether persons who are sharing accommodation with another person or persons, in the opinion of Cork City Council, have a reasonable requirement for separate accommodation,
- whether the current accommodation is unsuitable for the household's adequate housing –

- (i) in any other material respect, having regard to particular household circumstances, including rent affordability, or
- (ii) on exceptional medical or compassionate grounds.

## **6.0 Priorities for Transfers**

6.1 Cork City Council shall consider an application from a tenant to transfer to another City Council dwelling only in the circumstances and allocations shall be determined in the following priority:

- Overcrowding
- Under-utilisation of existing accommodation
- Medical or compassionate reasons

6.2 Prior to the allocation of a dwelling on foot of a request for a transfer in any of the above-mentioned circumstances, Cork City Council reserves the right to have the following requirements met by the tenant/applicant in respect of any existing tenancy:

- (a) Clear Rent Account **for a period of six months;**
- (b) Clear Refuse and Service Charge Account;
- (c) The tenant/applicant's dwelling must be maintained in a manner satisfactory to Cork City Council;
- (d) The tenant/applicant must have complied with all the conditions of the existing Tenancy Agreement;
- (e) The tenant/applicant must have no record of anti-social behaviour;
- (f) The tenant/applicant must have resided in the dwelling the subject of his existing Tenancy Agreement for a minimum period of two years.

## **7.0 Mutual Exchanges**

7.1 A tenant of Cork City Council may apply to exchange his existing tenancy for a tenancy of another dwelling in the ownership of Cork City Council, a Housing Authority or an Approved Body.

Applications for mutual exchange shall be subject to the approval of both Cork City Council and the other Housing Authority or Approved Body, to the surrender of the tenant's existing tenancy and to the execution by the tenant of a new Tenancy Agreement in respect of the tenancy to be granted by way of exchange.

7.2 In considering applications by way of mutual exchange, Cork City Council shall have regard to the reasons given by the applicant for the exchange. Subject thereto, Cork City Council shall consider applications by way of mutual exchange in the following circumstances and determine same in the following priority:-

- Overcrowding;

- Under-utilisation of existing accommodation;
- Medical or compassionate reasons.

7.3 Cork City Council reserves the right to allocate or refuse to allocate a dwelling by way of mutual exchange. Prior to the consideration of an application by way of mutual exchange, the following pre-conditions should be met:

- Both applicants must have an existing tenancy in their respective dwellings for a period of two years and have a clear rent account for a period of six months prior to the making of their applications;
- Both applicants must have a clear refuse and service charge account;
- The tenancy records of the applicants must establish compliance with the conditions of their respective Tenancy Agreements;
- The dwellings must be maintained in a manner satisfactory to Cork City Council and the Housing Authority or Approved Body;
- The applicants must have no record of anti-social behaviour;
- Cork City Council must be satisfied that the granting of a tenancy to the mutual exchange applicant would be in the interest of good estate management;
- Payment of the appropriate fee.

## **8.0 Downsizing Scheme for the Elderly**

8.1 Cork City Council may from time to time, as it sees fit, set aside a particular number or proportion of dwellings becoming available for allocation to persons aged 60 years or over whose application under the downsizing scheme is approved. Cork City Council will give priority in the allocation of such dwellings to persons aged 60 years or over who are approved for eligibility under the downsizing scheme.

8.2 Persons aged 60 years or over who are the owners of private dwellings which have become too large for their housing needs may apply to Cork City Council for a tenancy in a dwelling under the downsizing scheme.

8.3 The eligibility requirements and the proportion of tenancies to be allocated under the downsizing scheme for the elderly will be such as may be determined from time to time by the Director of Housing and Community Services.

8.4 Subject to the eligibility requirements being satisfied and subject to Cork City Council's approval of the acquisition of the applicant's existing dwelling, Cork City Council will consider applications for allocation under the downsizing scheme. The final decision in relation to an allocation and order of priority of an allocation under the downsizing scheme will be made by the Director of Housing and Community Services having regard to all information furnished by the applicant in support of his application together with all other relevant information known to the Director.

- 8.5 Cork City Council reserves the right to grant or not to grant an allocation of a dwelling under the downsizing scheme. The decision to grant an allocation of a dwelling under the downsizing scheme shall be subject to the sale by the approved applicant of his existing dwelling to Cork City Council and to the payment of a financial contribution to Cork City Council on the following basis and to the execution of a Tenancy Agreement:

<u>Age</u>	<u>Financial Contribution</u>
60-69 years	1/3 of net proceeds of sale of dwelling
70-79 years	1/4 of net proceeds of sale of dwelling
80 years and over	1/5 of net proceeds of sale of dwelling

(Net Proceeds shall exclude the discharge of any mortgage on the property and legal fees incurred in relation to the sale of the existing dwelling and the discharge of any mortgage/charge thereon).

## **9.0 Succession Tenancies**

- 9.1 In cases where one of two or more joint tenants of a dwelling provided by Cork City Council vacates the dwelling, a Form of Severance in respect of the joint tenancy shall be signed by the vacating tenant and produced to Cork City Council. The Director of Housing and Community Services after due consideration of all the circumstances known to him shall decide whether to accept the severance of such tenancy and to acknowledge the remaining tenant as the sole tenant.
- 9.2 In cases where the sole tenant vacates a dwelling provided by the City Council, leaving a spouse or partner in occupation of the dwelling, a Form of Surrender in respect of the tenancy shall be signed by the tenant and produced to the City Council. The Director of Housing and Community Services, after due consideration of all the circumstances known to him, shall consider an application for a tenancy in the dwelling by the remaining spouse or partner (if any) of the vacating tenant where:
- (a) the remaining spouse or partner has continued to reside in the dwelling throughout his lifetime and who has been assessed for rent purposes, or,
  - (b) the remaining spouse or partner who having left the dwelling for a period, has resided in the dwelling with the tenant with the permission of the City Council for a period of at least 2 years prior to the vacating of the dwelling by the tenant.
- 9.3 In cases where all of the tenants of a dwelling provided by Cork City Council have died or vacated the dwelling, Cork City Council shall consider an application for a tenancy from the following:

- (a) a person who has continued to reside in the dwelling throughout his lifetime and who has been assessed for rent purposes, or,
- (b) a person who having left the dwelling for a period, has resided in the dwelling with the tenant with the permission of Cork City Council for a period of at least 2 years prior to the death or departure of the tenant.

Where there are two or more surviving persons who meet the criteria at (a) or (b) above, a joint tenancy may be granted by Cork City Council.

- 9.4 In cases where one of two joint tenants of a dwelling provided by Cork City Council vacates the dwelling without signing and producing to Cork City Council a Form of Severance and fails to reside in the dwelling for a period of at least two years, the Director of Housing and Community Services after due consideration of all the circumstances known to him shall decide whether to deem a severance of the joint tenancy to have taken place and to acknowledge the remaining tenant as the sole tenant of the dwelling.
- 9.5 In cases where there is an existing tenancy of a dwelling provided by Cork City Council to tenants who have been married and who separate under a legal separation agreement, Cork City Council will have regard to the terms of that agreement provided it is produced in determining the status of the tenancy. In cases where a court order exists, Cork City Council will determine the status of the tenancy in compliance with the order of the court when produced.

## **10.0 Permission to reside in dwellings provided by Cork City Council**

- 10.1 The prior written consent of Cork City Council is required where a tenant wishes to have a person reside with him. Applications by a tenant for such consent will be considered on their merits and will involve an assessment of the following:
  - (a) The applicant's reasons for the application;
  - (b) The applicant's medical/compassionate needs;
  - (c) The applicant's need of full time care;
  - (d) The capacity of the dwelling to accommodate the proposed resident having regard to the number of persons in occupation of the dwelling with the tenant;
  - (e) The proposed resident's ability to provide housing from his own financial resources;
  - (f) The proposed resident's previous record, if any, as a tenant or resident of a Housing Authority.

Where Cork City Council is satisfied that the application to reside is being made solely in an effort to have the proposed resident succeed to the tenancy, permission to reside will not be granted.

- 10.2 The granting of permission to a tenant to have the proposed resident reside with the tenant does not confer a right on the proposed resident to succeed to the tenancy in the dwelling and confers no entitlement whatever on the proposed resident to any interest in the dwelling and on the tenant ceasing to hold the tenancy either through surrender, termination or otherwise, the approved resident will be required to vacate the dwelling.
- 10.3 The granting of permission to the tenant to have the proposed resident reside in the dwelling with the tenant shall be subject to the tenant obtaining independent legal advice prior to the execution of either a Carer's Agreement or a Residency Agreement as the case may be and producing same to the City Council together with a certificate from the tenant's Solicitor so confirming.

**11.0 Applications from former tenants for housing in respect of a dwelling provided by the City City Council**

- 11.1 Cork City Council reserves the right to exclude former tenants of Cork City Council or of any other Housing Authority or Voluntary Housing Body from inclusion on the housing list unless they show to the satisfaction of Cork City Council that:-
- (a) The rent and refuse account in respect of the previous tenancy and or tenancies is clear;
  - (b) The tenancy or tenancies were not abandoned;
  - (c) The letting conditions in relation to the previous tenancy or tenancies were complied with;
  - (d) The former tenant has no record of anti-social behaviour;
  - (e) The former tenant did not damage a dwelling or site previously provided by any housing authority and neither repaired the property nor paid for the cost of repairing the property.

**12.0 Applications from illegal occupiers**

- 12.1 An application for allocation of a dwelling will not be considered in circumstances where a dwelling provided by Cork City Council or any part thereof is occupied whether continuously or otherwise by the applicant without the lawful permission of Cork City Council.

**13.0 Applicant's requirement to provide information**

- 13.1 Where after the making of an application for housing, the circumstances of an applicant change, (e.g. change of address, birth of a child, change in medical circumstances, changes in the number of persons residing or to reside with the applicant, etc.), it shall be the responsibility of the applicant to advise Cork City Council of such change following which the housing application of the applicant will be reviewed by Cork City Council.

13.2 The completion of a housing or a transfer application shall include the requirement that the applicant shall furnish to Cork City Council a written authority to enable Cork City Council obtain information which in Cork City Council's opinion is relevant to the applicant's application from another Housing Authority or Approved Body and or a Health Service Executive and which Cork City Council considers necessary in connection with the application.

#### **14.0 Estate Management**

14.1 Notwithstanding anything contained in the Housing Acts, 1966 to 2009 or in this Scheme, Cork City Council may in accordance with the provisions of Section 14(1)(a) of the Housing (Miscellaneous Provisions) Act 1997 refuse to make or defer the allocation of a dwelling provided by Cork City Council to a person where Cork City Council considers that a letting to that person would not be in the interest of good estate management.

14.2 In the interests of good estate management, an applicant who is being considered for an allocation of a dwelling provided by Cork City Council may be required as a pre-condition of the grant of the tenancy to attend and participate in a pre-tenancy course.

#### **15.0 Anti-Social Behaviour**

15.1 Notwithstanding anything contained in the Housing Acts 1966 to 2009, or in this Scheme, Cork City Council may in accordance with the provisions of Section 14(1)(a) of the Housing (Miscellaneous Provisions) Act, 1997 refuse to make or defer the making of a letting of a dwelling to a person where Cork City Council considers that the person is or has been engaged in anti-social behaviour.