

SOCIAL HOUSING ALLOCATIONS: A PRACTICE GUIDE

March 2011

This document is a printed version of the online web guide published in March 2011 and available at:

www.scotland.gov.uk/allocations

The online web guide will be regularly updated as policy and practice develops. New practice examples from across Scotland will be made available there as they become available. The online web guide will contain the most accurate and up-to-date information.

What is this guide for?

This guide is for social landlords who allocate mainstream or general needs social housing in Scotland. Social landlords are local authorities and Registered Social Landlords (RSLs). Social housing is not the only way in which housing needs can be met and there are a wide variety of housing options. This guide focuses on just one of those options, social housing. It will help you understand the legal framework for allocating social housing and the flexibilities you have to respond to the needs of your communities.

We developed this guide with the support of an advisory group of housing practitioners, which included:

- Association of Local Authority Chief Housing Officers;
- Chartered Institute of Housing (Scotland);
- Convention of Scottish Local Authorities;
- representatives from Regional Tenant Organisations;
- Scottish Federation of Housing Associations;
- Shelter Scotland; and the
- Scottish Housing Regulator.

They are not the only ones who have helped make this guide what it is, landlords from across Scotland have provided examples of allocations in practice that have helped support and illustrate what is written in the guide. It has also benefited from the views of those who told us what they thought about an earlier draft in a consultation during August to October 2010.

This guide should help social landlords to find their way through the legislation and practice that is available for allocations. The Scottish Housing Regulator supports this guidance and welcomes clarification on the issues for landlords. As landlords you have to make sure that you comply with legislation, be able to demonstrate your actions are based on sound analysis of your local context and have in place robust monitoring arrangements. Your allocations policy must be accessible and transparent so that applicants understand how they can access your housing.

If you have any queries or comments about this guide please let us know at:

allocations@scotland.gsi.gov.uk

A practice guide

This is a practice guide that includes real experiences and approaches Scottish social landlords use to respond to common issues. There is enormous diversity amongst social landlords, while all operate within a common legal and regulatory framework, the way you meet good practice expectations will vary depending on your size and resources. The examples or approaches in this guide are not necessarily ones that you should adopt, because how you allocate your houses needs to reflect the context in which you work. So, what works well in one area, for one landlord, won't necessarily work for another. By sharing these real life examples we aim to support you to develop your responses to local issues.

It sets out the scope of local decision making and gives a range of practical examples and approaches you may wish to consider. We have set out the practice examples in a [separate practice log](#) and included links to the relevant practice examples at the end of each section.

This guide is not intended as a guide for housing officers but to inform decisions about and development of your allocation policies, processes and procedures, including guidance you develop for your staff. Although we have written this guide for landlords, it will also interest tenants and tenant organisations who help develop or revise allocation policies with landlords.

What's included

The guide allows you to dip into the relevant sections when you need advice on a particular issue. [Section 1](#) focuses on what you **must** do: the legal, regulatory and equalities rules around allocating social housing. The rest of the guide builds on this to look at how these rules are put into practice and the **flexibilities** you have as landlords as you:

- understand your communities and develop an allocations policy which aims to meet the need and demand for your housing;
- ensure access to your housing, including working with others;
- allocate housing in line with your policy;
- create sustainable tenancies; and
- make sure that your allocations policies, procedures and processes are open and accountable.

This guide gathers and provides information on **existing** policy and practice. The legal, regulatory and equalities rules and the flexibilities **already exist**. For the first time they are brought together in a single guide. Throughout the guide there are links to other sources of information and advice which you may find helpful. For ease this Guide includes and replaces:

- SEDD Circular 1/2002 'Housing (Scotland) Act 2001: Housing Lists and Allocations' ([Section 1](#));
- Housing and Regeneration Circular HAR1/2009 'Housing for People Leaving the Armed Forces' (in [Section 5.3](#)); and

- 'Good Practice in Housing Management: Medical Priority in Allocations', Good Practice Note 7, Scottish Office published in 1999 (in [Section 5.2 \(a\)](#)).

1. Legislative framework and regulatory standards

This section sets out what you must and must not do when allocating your houses. When managing your housing lists and allocating your housing, you need to meet the legal rules. The view of the Scottish Government is that within these legal constraints, which include the homelessness rules set out in Part II of the 1987 Act (as amended by the 2001 Act and the Homelessness etc. (Scotland) Act 2003), you have discretion to develop allocation and lettings policies in line with local priorities. Sections 2 to 7 of this guide include examples of how landlords have used these flexibilities to respond to housing need in their area.

Sections 19 and 20 of the Housing (Scotland) Act 1987 ('the 1987 Act'), as amended by Sections 9 and 10 of the Housing (Scotland) Act 2001 ('the 2001 Act') set out the legal rules about social housing lists and allocations. They apply to all social landlords. This section provides guidance on these legal rules and replaces SEDD Circular 1/2002 'Housing Lists and Allocations' published in February 2002. For ease of reference, we have shown the relevant rules in a consolidated way in [Annex A](#).

You have a duty to make rules covering priority of allocation of houses, transfers and exchanges and to publish these rules (section 21 of the 1987 Act, as amended by section 155 of the Leasehold Reform, Housing and Urban Development Act 1993 and the 2001 Act). You should make sure that the full set of rules is in plain English and is available to all for scrutiny at their offices. Also, a free summary of the rules must be available to all members of the public if they ask for one.

1.1 Eligibility for Housing

By eligibility, we mean whether you can legally admit an individual to a housing list or allocate them a house:

- Eligibility for accessing a housing list only takes into account the age of the applicant. Section 19(1) of the 1987 Act (as substituted by section 9 of the 2001 Act) sets out the **right for anyone aged 16 or over to be admitted to a housing list**. This makes sure that a housing list does not leave out anyone in housing need. **However, the right to be admitted to the list is not a right to be allocated a house.**
- Local authorities need to make sure they can allocate a house to applicants who are non-UK nationals. While many non-UK nationals are entitled to housing and assistance with homelessness, some are not. As RSLs are not subject to the exclusion on granting tenancies to persons subject to immigration control (see section 118 of the Immigration and Asylum Act 1999, which applies in Scotland only to local authorities) they do not need to consider nationality or immigration status and can allocate homes to any person.

Eligibility for housing in terms of non-UK nationals is a very complex area. More detail is set out in the information point at [Section 3.1](#). We will also shortly be publishing flow charts and case studies to help you understand the rights of non-UK nationals to housing and homelessness assistance.

Housing lists

Section 19(2) of the 1987 Act, (as amended) defines a housing list as a list of applicants for housing which is either kept by social landlords individually, jointly, or by a third party so that you can allocate your housing. This allows for common housing registers and housing lists, which may also be known as housing registers.

Once you have logged the application for housing, this is the beginning of the process. After you have admitted an applicant to your housing list you have to decide on the priority of their application. Section 20 of the 1987 Act (as amended by section 10 of the 2001 Act) sets out what you must take into account and specific factors which you must not take into account.

[Section 3](#) on access to housing includes discussion and links to practice examples on admission to and managing your housing list or register.

1.2 Reasonable Preference

Section 20(1) of the 1987 Act (as amended) requires that in selecting tenants for their houses, all local authorities and RSLs must give reasonable preference:

a) to persons who

(i) are occupying houses which do not meet the tolerable standard; or

(ii) are occupying overcrowded houses; or

(iii) have large families; or

(iv) are living under unsatisfactory housing conditions; and

b) to homeless persons and persons threatened with homelessness (within the meaning of Part II of the Housing (Scotland) Act 1987 (as amended) and unless they would not be such persons without the local authority having regard to a restricted person, for example, asylum seekers and non-EU nationals).

"Tolerable Standard" is as defined by section 86 of the 1987 Act and amended by section 102 of the 2001 Act and section 11 of the Housing (Scotland) Act 2006. A house meets the tolerable standard if it:

- is structurally stable;
- is substantially free from rising or penetrating damp;
- has satisfactory provision for natural and artificial lighting, for ventilation and for heating;
- has satisfactory thermal insulation;
- has an adequate piped supply of wholesome water available within the house;

- has a sink provided with a satisfactory supply of both hot and cold water within the house;
- has a water closet or waterless closet available for the exclusive use of the occupants of the house and suitably located within the house;
- has a fixed bath or shower and a wash-hand basin, each provided with a satisfactory supply of both hot and cold water and suitably located within the house;
- has an effective system for the drainage and disposal of foul and surface water;
- in the case of a house having a supply of electricity, complies with the relevant requirements in relation to the electrical installation for the purposes of that supply;
- has satisfactory facilities for the cooking of food within the house; and
- has satisfactory access to all external doors and outbuildings.

Part VII of the 1987 Act defines "overcrowding". When the number of people sleeping in a house breaches the room standard or the space standard (both of which are set out below) a house is overcrowded.

Under the room standard, if the number of people sleeping in the house and the number of rooms available as sleeping accommodation (that is rooms normally used in the locality as a bedroom or living room) mean that two people of the opposite sex have to sleep in the same room then the accommodation will be overcrowded unless:

- the two people are living together as husband and wife; or
- one or both of them is under 10 years old.

The space standard determines the number of people who are permitted to sleep in a home based on:

- the number of rooms available as sleeping accommodation. Rooms that are counted are rooms normally used in the locality as a bedroom or living room;
- the size of those rooms. Rooms under 50 square feet (4.645m²) are ignored; and
- the ages of people who live there. Children under 1 year old are not counted and children over 1 and under 10 count as a half.

You can calculate the permitted number of people in a property by looking at both of the tables below. Table 1 tells you how many people can sleep in the house according to the number of rooms. Table 2 tells you how many people can sleep in each room according to the size of the room and the total for each room, when added together, tells you how many people can sleep in the house. You need to look at both tables and the smaller of the two numbers produced is the permitted number of people that may live in that house. If the permitted number is exceeded, the house is overcrowded.

Table 1:

Number of rooms available for sleeping	Number of people who can sleep in the property
1	2
2	3
3	5
4	7 1/2
5 or more	2 for each room

Table 2:

Floor area of room	Number of persons who can sleep there
110 sq ft or more (10.219m ²)	2
90 sq ft (8.361m ²) or more but less than 110 sq ft	1 1/2
70 sq ft (6.503m ²) or more but less than 90 sq ft	1
50 sq ft (4.645m ²) or more but less than 70 sq ft	1/2

While the law sets out the minimum standards needed to prevent overcrowding, in practice, you may develop more generous standards of your own.

The law does not define "large families". You can exercise their own judgement on what makes a large family. You should consider your stock and the needs of your community and set out what "large families" means for you in your allocations policy.

The law also does not define "unsatisfactory housing conditions". The term is wide enough to cover the physical condition of the house as well as its unsuitability as a result of a medical condition or the disability of the occupant. It can also cover other aspects of an applicant's circumstances, such as unsatisfactory living arrangements, problems with neighbours, harassment and domestic abuse. You should set out what this means for you in your allocations policy.

Part II of the 1987 Act (as amended) defines "homeless persons". A person is homeless if he or she has no accommodation in the United Kingdom or elsewhere, or if he or she has accommodation, but it would not be reasonable for him or her to occupy it. A person is homeless if he or she has accommodation, but:

- cannot secure entry to it;
- it is probable that occupation of it will lead to abuse;
- it is probable that occupation of it will lead to threats of abuse from someone who previously lived with him or her and who is likely to carry out the threats;
- it is a moveable structure, vehicle or vessel and there is no place where he or she is entitled or permitted to place it and live in it (this has particular relevance for Gypsies/Travellers);
- it is overcrowded and may endanger the health of the occupants; or
- it is not permanent accommodation and the local authority has a duty to provide permanent accommodation. Permanent accommodation includes accommodation owned by him or her or in which he or she is a tenant with a secure or assured tenancy. It also includes a short Scottish Secure Tenancy where such a tenancy has resulted from previous anti-social behaviour or from any prospective tenant or resident under an anti-social behaviour order.

Part II of the 1987 Act (as amended) also defines "persons threatened with homelessness". A person is threatened with homelessness if it is likely that he or she will become homeless within 2 months.

Reasonable preference refers to the priority given to applicants for housing. It means that you must give due weight to the factors as set out above.

Section 20(1) of the 1987 Act (as amended) does not weight the reasonable preference groups. The law makes no distinction between persons in subsection (a) and those in subsection (b) (see above and the exception it contains). But, local authorities also have duties to provide accommodation and/or advice to those who are homeless or are threatened with homelessness under sections 31 and 32 of the 1987 Act (as amended).

You have to decide how much weight to give to each reasonable preference group. You could give equal weight to each group. Or you could reflect the need and demand in your area in the weighting you give to each reasonable preference group in your allocation policy. The '[Code of Guidance on Homelessness](#)' states that "at the very least" you should not give homeless people lesser preference than the other specified groups.

[Section 5](#) includes discussion on allocations and reasonable preference and the reasonable preference groups in practice.

Reasonable preference does not mean that you must allocate a house to someone in the reasonable preference groups regardless of its suitability for the applicant. Your allocation should aim for a sustainable, successful tenancy and make best use of the stock. This is set out in more detail in [section 5.7](#) and [5.8](#).

The law does not restrict housing providers to taking only the factors in the reasonable preference groups into account. You can add other factors of their own, such as housing key workers coming into the area or re-housing people with medical conditions. But, you must not allow your own secondary criteria to dominate your allocation policy at the expense of factors in the legal list. You must also take care to

ensure that in adding criteria of their own, they do not consider any of the factors set out below in section 20 (2) of the 1987 Act (as amended). [Section 5.4](#) considers local factors in practice in more detail.

You must make sure, whatever system you run, that you give reasonable preference to the groups in section 20 of the 1987 Act (as amended) and meet the limitations on factors that can be taken into account.

1.3 Factors you must not take into account

Section 20 (2) of the 1987 Act (as amended by section 10 (3) of the 2001 Act) sets out factors which you must not take into account. These are set out below.

(a) Residency

The first provision under section 20(2) of the 1987 Act (as amended) states that you cannot take into account the length of time for which an applicant has lived in your area. This makes sure that length of residence does not influence your decisions on priority for housing. It prevents, for example, the award of points purely for length of residence in your area. For local authorities, "area" means your administrative area. For RSLs, "area" means the local authority area(s) or parts of such areas in which you have housing.

The law does not prevent you from giving points for the length of time an applicant has been on the housing list. The allocation policy must make such points available to anyone on the list whether they are within or outwith your area. For example, you may wish to use waiting time to decide priority between two households with similar levels of need. However, time on the housing list must not dominate your allocation policy.

The provisions at section 20(2)(aa) of the 1987 Act (as amended) prevents you from taking into account whether an applicant lives in your area if the applicant:

- i) is employed, or has been offered employment, in the area; or
- ii) wishes to move into the area to seek employment and the landlord is satisfied that this is the applicant's intention; or
- iii) wishes to move into the area to be near a relative or carer; or
- iv) has special social or medical reasons for requiring to be housed within the area; or
- v) wishes to move into the area because of harassment; or
- vi) wishes to move into the area because he or she runs the risk of domestic abuse.

Section 8 of the Protection from Harassment Act 1997 (c40) defines "harassment" as including causing a person alarm or distress.

Section 33 of the 1987 Act defines "domestic abuse" as abuse from a person with whom, but for the risk of abuse, an applicant might reasonably be expected to live, or abuse from a person with whom they formerly lived. For this purpose, "abuse" includes violence, harassment, threatening conduct, and any other conduct giving rise, or likely to give rise, to physical or mental injury, fear, alarm or distress. [Section 5.2 \(b\)](#) considers harassment and abuse issues and allocations in practice.

The law does not prevent you from taking the fact that someone lives in your area into account and giving priority to local people. This is known as having a local connection to an area. By doing so you are taking into account the fact that the applicant is resident in your area. However, you cannot take that into account for applicants in the circumstances listed above. So, you have to also give the same priority you give to residents for having a local connection to such applicants. You can give preference to applicants living within your area and those meeting the criteria in the list above, over applicants who live outside your area and who don't meet any of the criteria.

These provisions remove obstacles within the social sector to the mobility of households where applicants need to move for employment, social or health reasons or because it has become untenable for them, because of the behaviour of others, to stay in their area.

The law allows you to have a separate allocations policy for a particular area and to run this policy with different criteria from your main policy. Criteria could include giving priority to people in specific neighbourhoods or communities, in line with what is set above. Criteria cannot, however, include any of the factors you cannot take into account under section 20(2) of the 1987 Act (as amended). Separate allocations policies for particular areas are known as local letting plans or initiatives. You can find more about them in practice in [Section 5.4 \(c\)](#).

(b) Outstanding liabilities

Section 20(2)(a) of the 1987 Act (as amended) also doesn't allow you to take account of:

- (ii) any outstanding liability (such as rent arrears) attributable to the tenancy of a house of which the applicant was not the tenant;
- (iii) any rent or other liabilities accrued by the applicant on a previous tenancy which are no longer outstanding;
- (iv) any such liability which is outstanding but where:
 - (a) the amount outstanding is not more than 1/12th of the annual amount payable (or which was payable) by the applicant to the landlord in respect of the tenancy; or
 - (b) the applicant:

- has agreed arrangements with the landlord for paying the outstanding liability;
- has made payments in line with that arrangement for at least 3 months;
- and is continuing to make such payments.

(v) any outstanding liability (including council tax arrears) of the applicant or anyone who will live with the applicant which do not relate to the tenancy of a house. This means that any outstanding debts which do relate to the tenancy of a house, such as rent or service charges, can be taken into account if they do not fall within the exceptions already set out above.

The rules at (ii) to (v) above seek to limit the circumstances in which you refuse to house an applicant because of their or others' earlier debts. It may be reasonable for you to refuse to house an applicant if he or she has significant unpaid rent arrears or

service charges and these rules do not prevent you from doing this. But, you cannot refuse to house an applicant:

- because of non-housing debts; or
- if they have had arrears of rent or service charges which have since been paid; or
- where the rent or service charges arrears amount to no more than a month's charges, (to avoid penalising applicants for purely technical arrears); or
- where the applicant has come to an arrangement for paying arrears, has kept to the arrangement for at least three months and is continuing to make the payments. This helps applicants who are making a genuine effort to pay off arrears.

Local authorities who are considering refusing to house an applicant because of significant unpaid rent arrears or service charges should consider what duties they have towards the applicant under their responsibilities to statutory homeless households. This will involve determining whether they are homeless, in priority need and if they are unintentionally homeless. The [Code of Guidance on Homelessness](#) includes approaches to households who have become homeless due to financial problems.

[Sections 3.9 \(a\)](#) and [Section 6.1](#) also consider issues around rent arrears and allocations.

(c) Age

You also can't take into account:

(vi) the age of the applicant provided that the applicant is 16 years of age or over except in the allocation of:

(a) houses which have been designed or substantially adapted for occupation by persons of a particular age group;

(b) houses to persons who are, or are to be, in receipt of housing support services (within the meaning of section 91 of the 2001 Act) for persons of a particular age group.

"Housing support services" includes any service which provides support, help, advice or counselling to an individual with particular needs so that individuals occupy, or continue to occupy, a house as their home (see section 91 of the 2001 Act). The provisions relating to the disposal and management of premises in the Equality Act 2010 are excluded from the scope of the ban on age discrimination in that Act and therefore do not affect the provisions in the 1987 Act (as amended). See also [section 1.6 \(b\)](#).

These exceptions reflect the fact that age should not be a barrier to getting houses, but in some cases, certain housing will be particularly or only suitable for certain age groups. The law does not define the age groups and such housing can include, but is not restricted to, sheltered housing for older people and supported housing, such as foyers, for young people. See also [section 5.5 \(a\)](#).

The law doesn't define "substantially adapted" in subsection (a), but this is likely to involve major adaptations to housing. '[Guidance on the Provision of Equipment and Adaptations](#)', published by the Scottish Government in December 2009 defines major adaptations as work that involves structural or other permanent changes to a house.

(d) Income

(vii) the income of the applicant and his family:

Income in this context refers to income of all sources including benefits. The law prevents you from taking the income of housing applicants into account when allocating homes. This restriction also applies to applicants for housing who are non-UK nationals, whether or not they can receive benefits, and who may as a result, have problems in paying their rent.

[Section 5.5 \(b\)](#) also considers issues around income and practice in allocations.

(e) Ownership of property

(viii) whether or to what value the applicant or any of the applicant's family owns or has owned (or any of them own or have owned) heritable or moveable property:

The reason for not taking account of any history of home ownership is that owners can find themselves in circumstances where they need social housing. Such circumstances might include mortgage repossessions, relationship breakdown, loss of employment or other income required to sustain ownership, age, infirmity or the need to be near a relative or carer. As with all allocation decisions, the overriding principle is that you make allocations on an objective assessment of need.

[Section 5.5 \(c\)](#) also considers issues around property ownership and allocations.

(f) Other factors

The 2001 Act extends Section 20 (2) (b) of the 1987 Act so that it now applies to allocations by both local authorities and RSLs. It prevents you from imposing certain requirements before you allocate housing to an applicant. This includes that:

- an application must have stayed in force for a minimum period; or
- the applicant gets a divorce or judicial separation; or
- the applicant no longer lives with, or in the same house as, some other person.

1.4 Role of Councillors and Management Committees

Section 20 (3) of the 1987 Act (as inserted by section 154 of the Leasehold Reform, Housing and Urban Development Act 1993) excludes councillors from decisions on certain allocations. It excludes the local councillors from a decision on allocating a council house (or a house where the local authority has nomination rights) where the house in question is situated, or the applicant for the house in question lives, in the electoral division or ward for which those members are elected. This does not

prevent councillors from making factual information known to the local authority or from making representations to the local authority on behalf of a constituent.

In general, management committee members decide on the allocations policy and should monitor general outcomes of that policy. Management committees must have no involvement in discussions or decisions about individual allocations, which must stay the responsibility of officers of the RSL.

Information Point: Staff, Councillors and Governing Body Members

Only staff should run the day to day operation of the allocation process. The role of councillors and governing body members is to set and review the policy and monitor progress against policy aims. There is no legal or regulatory requirement but councillors and governing body members can be involved in considering appeals or individual cases. In these circumstances you must anonymise the details of the case and you must not reveal personal information about the applicants. Care must be taken when members or staff or their families apply for housing. Staff members or their family members cannot be allocated a house simply because they are a member of staff or their family. This doesn't prevent staff members or their family being allocated a house as part of the normal, fair, open and objective process of allocating social housing. Any such applications should be treated in line with all other applications. You should recognise and address conflicts of interest.

1.5 Regulation

In developing your allocation policy you also need to take into account the performance standards jointly published by the Scottish Housing Regulator, SFHA and COSLA. These performance standards give you a framework to measure your performance, as well as provide a consistent basis for external assessment. The performance standards that you should consider for your allocations policy are:

- **Access to housing:** we ensure that people have fair and open access to our housing list and assessment process. We work with others to maximise and simplify access routes into housing.
- **Lettings:** we let houses in a way that gives reasonable preference to those in housing need, makes best use of stock maximises choice and helps to sustain communities.

Further information on how you can achieve these standards in practice is in sections 2 to 7 of this Guide.

1.6 Data protection, equality and human rights

(a) Data protection

Applicants give you a lot of personal information in their application form. The Data Protection Act 1998 covers this information. You must keep it strictly confidential and only process it as permitted under that Act. You must not pass any information on to,

or talk about it with, any other person or organisation without the permission of the applicant. If in doubt as to whether data sharing is permissible you should seek appropriate advice. Applicants have the right to inspect any record you hold about their application form. You can find guidance on the Data Protection Act here: [Data Protection Act \(DPA\) guidelines - Organisations - ICO](#).

(b) Equality

You must make sure that your allocations policy, processes and procedures are in line with equalities legislation. This includes Section 106 of the Housing (Scotland) Act 2001 which introduced legal duties on landlords. You have duties to encourage equal opportunities and provide services in a way that promotes equality. The definition of equal opportunities is wide and includes sex, disability, race, religion, sexual orientation and age. This is reinforced by the performance standard which states that you should:

'embrace diversity, promote equal opportunities for all and eliminate discrimination in all areas of our work'.

You can find more information on regulatory expectations on the Scottish Housing Regulator's website: [The Scottish Housing Regulator - equalities expectations](#). The current public sector equality duties require public authorities, including local authorities, to have due regard to the need to promote race, disability and gender equality across all of their policies and practices. The Equality Act 2010, once fully commenced, will introduce 9 protected characteristics:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion or belief;
- sex; and
- sexual orientation.

The bulk of the Act came into force on 1 October 2010. It replaces previous equality legislation, including the Disability Discrimination Act 1995, Sex Discrimination Act 1975 and the Race Relations Act 1976.

The provisions relating to the disposal and management of premises in the Equality Act are excluded from the scope of the ban on age discrimination in that Act so you can still take into account age in allocating social housing when the law allows you to (see [section 1.3 \(c\)](#)).

The Equality Act 2010 also introduces a new public sector equality duty which will require public authorities to have due regard to the need to eliminate discrimination, promote equality of opportunity and foster good relations. This new duty replaces the existing race, disability and gender equality duties. We expect it to come into force

on 6 April 2011 and it will apply widely to all public authorities. This duty will also cover RSLs in the exercise of public functions.

There are specific duties which also require some public authorities to publish schemes setting out how they will promote equality, including their method for formal impact assessment of policies and practices. While RSLs are not subject to these specific duties, the Equality and Human Rights Commission (the enforcement body for these duties) encourages other bodies to take on board the principle of these duties and do equality impact assessments. We consider equality impact assessments in more detail in [section 2.5](#).

(c) Human Rights

Under the Human Rights Act 1998, in enjoying the rights and freedoms granted by the European Convention on Human Rights we all have the right not to suffer discrimination on grounds such as sex, race, language, religion, sexual orientation, or national or social origin. The rights protected by the Act include the right to:

- respect for private and family life, home and correspondence;
- freedom of religion or belief;
- freedom of expression; and
- peaceful enjoyment of your possessions.

You need to take into account the law on allocations, equalities and human rights, as well as regulatory standards when deciding on your allocations policies, processes and procedures.

2. Understanding your communities and developing a policy

The term communities can mean different things to different people. The Local Government in Scotland Act 2003 Community Planning Statutory Guidance 2004 states that "there are a wide range of communities, some defined by geography (such as neighbourhood or town), some by common or shared interests (such as young people or carers)."

Allocation policies set out how you intend to let your houses. They lay out how you are going to decide a hierarchy of need in order to allocate a limited supply of housing. **Legislation states that you have to have an allocation policy and that you must make it public.** You cannot develop an allocation policy in isolation, it is not just a matter of taking a policy 'off the shelf' to meet legal rules.

Allocation schemes may take different forms and you may be developing policies with others, for example, through a common housing register. Some landlords also take a choice based approach. More on these ways of allocating properties are set out in [section 4](#).

2.1 Developing or reviewing a policy

A whole range of factors will inform your policy and in developing or reviewing your allocations policy you will want to consider a range of factors. What you take into account will depend on your size and the stock you have. Factors could include:

- allocations and equalities legislation;
- the local housing strategy;
- the goals of your strategic plan;
- your local housing system;
- current and future housing supply;
- the stock profile of landlords taking part in the policy (the type of stock held, the area it is in and stock which you intend to use to meet particular needs);
- housing demand in your area: who is applying, and the level and type of housing needs they have, as well as their preferences;
- who is being housed and who is not; and
- good practice.

Landlords whose stock covers a wide geographical area may find it more difficult to take into account need and demand at a local level in a single allocations policy. Local letting initiatives, buddying arrangements in common housing registers and nomination arrangements are ways of reflecting local need.

2.2 Your allocation policy

(a) The content of your allocation policy

You will need to decide what goes into your allocation policy. When you draw up your policies you need to take into account the law, but you also need to reflect the

unique nature of your local housing system. There is no 'one size fits all' allocation policy. It is likely that your allocation policy will include:

- the outcomes you want to achieve. You should design your policy to deliver these outcomes;
- what you will take into account when making allocation decisions (see [section 5](#));
- the priority for housing that you will give to applicants with a variety of housing needs, including setting out what:
 - reasonable preference means in your local context (see [section 1.2](#));
 - weight you will give to each of the reasonable preference groups set out in law in light of the local demand for housing (see [section 1.2](#)); and
 - terms like "large families" and "unsatisfactory housing conditions" means in the context of your stock (see [section 1.2](#)).
- any lettings quotas or targets or reference to local lettings plans where these are set out (see (b) below);
- arrangements for assessing and verifying applicants' needs;
- any house size eligibility criteria which set out expectations around matches between household and property sizes, including whether applicants can apply for larger properties (see [section 5.8](#));
- situations where you may deviate from the allocation policy, for example sensitive lettings (see [section 5.7](#)), local lettings initiatives (see [section 5.4 \(c\)](#)) and the arrangements for doing so;
- arrangements for suspending applicants from receiving offers (see [section 3.9](#));
- arrangements for your housing list or housing register, including reviewing it and removing applicants (see [section 3.7](#));
- the arrangements for transfer applicants, if they differ from those for direct applicants;
- the process of letting a property from application to offer of housing;
- the appeals and complaints processes (see [section 7](#)); and
- arrangements for monitoring and reviewing your policies (see sections 2-7).

(b) Quotas and targets

Many social landlords run a quota or targets system in an effort to achieve a spread of lets over the various needs factors.

You should base any targets or quotas on the information you have gathered in understanding the housing demand in your area. Essential information would include who is applying for your housing, and the level and type of housing needs they have, as well as their preferences. You will need to take into account:

- the size and composition of your housing list; and
- the profile of your stock and the vacancies which are likely to become available.

You should avoid setting rigid quotas which you cannot amend in the light of changing circumstances. Your approach should contain sufficient flexibilities to allow you to meet significant housing need when a quota or target has been reached. You should review any quotas and targets regularly and you should publish them, either

as part of or alongside your allocations policy in an annual lettings plan. Your allocations policy should refer to any accompanying plans. You should monitor lettings outcomes and publish performance against the targets. Such an approach will help make the allocation process more transparent.

2.3 Transfer Applicants

Housing demand comes from both new applicants and existing tenants. There are a variety of ways you can manage these pressures. Some landlords use quotas and targets in their allocation policy or lettings plan. Others adopt a transfer led approach with the initial vacancy being offered to a transfer tenant and the resulting vacancy being offered to a direct applicant from the housing list or register. Some landlords use such lettings chains to meet the needs and demands of both transfer and direct applicants. You should consult with your tenants if you are considering such an approach, some have agreed to an increase in rents to fund new build social housing for which priority is given to existing tenants. You should continue to make sure that your allocations policies, processes and procedures give reasonable preference to those set out in [section 1.2](#) across your lets and you should consider the quality of offers you give to applicants in the approach you intend to take.

2.4 Involving tenants and applicants

The 2001 Act obliges you to talk with your tenants and registered tenants organisations on changes to policies and services that affect them. **You must show how you have taken their views into account.** There is no legal obligation for you to talk with applicants (including homeless applicants), but you should attempt to talk with service users as any decisions on how you allocate houses will have an impact on them. Some landlords go further and involve the broader community, for example by talking with community councils and other representative groups.

Involving tenants and applicants in policy development and review is not just something you should do because legislation says you have to, but because it will help you develop a policy that fits well within the context you work in. **Allocations are important to people, by involving them at an early stage you get the views of service users on how the system runs, and you can use this to make improvements.**

Involving equality groups will help you to understand that different groups have different needs and help you provide your services in ways which respond to those needs. You also have the opportunity to raise awareness in the community and with service users about the need for and availability of housing as well as the constraints under which you work.

Where possible, having staff members trained in, and aware of, equality issues and on the specific needs of social groups such as refugees, victims fleeing domestic abuse and other particular groups will help you work more effectively with equality groups. This may not be possible for housing providers with few staff. Where it is possible it will benefit your allocation policies, processes and procedures.

However you involve equalities groups, you should do so in a way that is fully accessible and includes all members of your communities. Difficulties that can exist in involving equalities groups, amongst others, include:

- communication barriers;
- environmental barriers, such as physically inaccessible buildings;
- organisational barriers, such as the timing of events or meetings;
- transport barriers; and
- attitudinal barriers, based on unquestioned assumptions and stereotypes.

You can find detailed guidance and practice examples on how to effectively involve local people in two Scottish Government publications. Both guides give useful information on the issues you need to consider in talking with equality groups on policy development:

- [Community Engagement How To Guide](#)
- [Guide to Successful Tenant Participation](#)

Another source of information to help you overcome barriers involving those with disabilities can be found in Glasgow Disability Alliance's top tips guide called "[Are we being served?](#)".

While it is important to involve tenants in developing and agreeing the allocation policy, and it is positive practice for existing tenants to welcome new tenants, some landlords have gone further and involved tenants in the selection of tenants. The Regulator has criticised this as poor practice - not only does it undermine transparency but it does not guarantee equality of access for all applicants. It might disadvantage those with disabilities or people with poor social skills or communication difficulties. In one area, a panel of residents interviewed prospective tenants and the landlord later made an offer of housing based on the panel's recommendation. The outcome was that less than 3% of lets had been made to statutory homeless applicants, in comparison to 30% in the stock overall.

2.5 Equality Impact Assessments

[Section 1.6 \(b\)](#) talks about your equality duties. An equality impact assessment will help you consider how your policy will impact, either positively or negatively, on different people in different ways. An assessment will help make sure that any policy you adopt reflects the needs of the communities you serve and it will help you to identify ways to promote equality. You should do an assessment when you develop or review your allocation policies. It is better to begin the equalities impact assessment at a very early stage of developing your policy so that any findings can shape it.

Much will depend on local circumstances but the depth and complexity of the assessment you undertake should relate to the size of your organisation size and the amount of stock you manage. It should show that you have considered the impact of your allocation policy on equalities groups and that it meets the needs of all those the policy is aimed at.

Where possible, having staff who are trained in, and are aware of, equalities issues as well as discussing draft impact assessments with equalities groups will help make sure that you identify and address any issues as you develop or review your policies. This may not be possible if you only have few staff. You can find guidance on carrying out equalities impact assessments on the Scottish Government website: [Equality Impact Assessment Tool](#).

The Improvement and Development Agency for local government has also published a practical guide on carrying out such assessments. You can find this on its website: [Equality impact assessments \(EqIAs\)](#).

2.6 Publication of rules

Legislation requires that you publish your allocation policy in full and make it accessible to all (see [section 1](#)). A free summary of your rules must also be available to the public, in different formats and languages, if they ask for one. You may also want to consider who is applying for your houses and whether it would be helpful to also make any particular community languages or formats available. It is good practice to make sure that the guidance you give applicants on how to make an application and on how your policy works is in plain and understandable language.

2.7 Monitoring

You need to develop a monitoring framework. As an integral part of the policy development process you should have mechanisms in place from the start to help you assess whether the policy achieves what you want it to. This is important because you can:

- tailor the indicators and measures to your policy aims;
- identify disparities or un-noticed discrimination in the operation of your policy; and
- measure the impact of any policy change. But this can only be measured if the monitoring framework is in place when (and preferably before) you implement a policy.

To help you assess and continuously improve your performance the Scottish Housing Regulator has provided you with a range of material, including a range of self assessment questions. You should consider the following questions on your allocation policy:

- Do your allocation policies, procedures and practices comply fully with legislative requirements?
- Does your definition of housing need fully accommodate statutory definitions?
- Is your definition of housing need supported by a robust analysis of the needs of a full range of your service users?
- Do you give priority to applicants in housing need?

- Do your allocation policies and procedures positively contribute to the prevention and resolution of homelessness?
- Does your policy accommodate mobility issues for tenants with changing support needs?
- Is your approach to considering the needs of the community when making allocation decisions set out in your policy?
- Is your approach to the sustainability of individual tenancies and the stability of community clearly set out in your policy?
- Does your allocations policy cover the full range of circumstances within which you allocate your houses?
- Do you promote choice throughout your allocation policy?
- Do you provide clear and accessible information on your allocation policy to a full range of stakeholders?
- Do you involve a full range of service users and partners in the development and review of your allocation policies and procedures?

2.8 Practice Examples

Real experiences and approaches Scottish social landlords use to respond to common issues in understanding their communities and developing their policy are set out in the practice log:

- [**Local Letting Plans** - Glasgow Housing Association \(March 2011\).](#)
- [**Allocations quotas and targets** - Almond Housing Association, Blairtummock Housing Association, Fife Council, Loreburn Housing Association and Shetland Islands Council \(March 2011\).](#)
- [**Explaining lettings plans** - Forth Housing Association \(March 2011\).](#)
- [**Allocations Policy for New Build Council Houses** - West Lothian Council \(March 2011\).](#)
- [**Involving tenants and applicants in developing an allocations policy** - Renfrewshire Council \(March 2011\).](#)
- [**Equality Impact Assessments and staff training** - North Lanarkshire Council \(March 2011\).](#)

3. Access to Housing

An allocations policy will set out how you will manage your housing list and allocate your houses. This chapter focuses on how people access your housing list and your housing. The performance standard, set out in [section 1.5](#), means that you have to make sure that all people have fair and open access to your housing list and assessment process.

Routes into housing

There are a number of ways in which people can access your organisation's housing. These may include any or all of the following:

- **direct applicants:** those applying from outside your organisation and your existing tenants seeking re-housing (transfer applicants);
- **nominations:** applicants who one landlord (usually a local authority) nominates to another (usually a RSL) under formal agreements. This can include homeless households;
- **section 5 referrals:** applicants are statutorily homeless and a local authority refers them to a RSL for housing. Section 5 of the 2001 Act sets out the rules about such referrals. You can find more detail in [section 4.3 \(b\)](#);
- **mutual exchanges:** where two tenants (whether or not from the same landlord) exchange homes and tenancies;
- **mobility schemes:** there are a number of privately run national mobility scheme providers who offer a mutual exchange service to tenants looking to exchange their property with another tenant. For example: [Houseexchange](#), [HomeSwapper](#) and [ukhomeswap](#);
- **referral schemes:** schemes where voluntary organisations or other agencies refer applicants for housing so that the agency can give support.

Many landlords also provide housing in exceptional cases:

- **Individual cases:** applicants whose circumstances do not fit in with standard policy and routes, and whose need for housing is very urgent. Your allocations policy should allow for particular arrangements that will meet the tenants needs in such circumstances (see [section 5.6](#)).

3.1 Admission to the housing list or register

Whatever the route, the law gives everyone aged 16 or over the right to apply to you for housing, have their needs assessed and have their application held on a housing list (see [section 1.1](#)). So, you must always keep your list open and admit anyone at any time.

Information Point: The law and housing lists

The law does not oblige you to manage or maintain your own housing lists. Legislation says that you must have an allocation policy which governs how you allocate your houses, but you do not need to maintain a list and carry out the process of allocating your houses yourselves. This allows, for instance:

- *RSLs to give 100% nomination rights to local authorities; and*
- *Social landlords, working together on a common housing register, to set up a third party organisation to administer the housing list and allocate houses on their behalf. Housing lists in these circumstances are often referred to as housing registers.*

There may be certain circumstances where it would be helpful to accept an application from someone before their 16 birthday, for example to help the transition of a young person from care to independent living.

You must admit applicants with little or no housing need on to the housing list and you cannot run any form of points or need thresholds (sometimes referred to as 'cut-off points') for gaining access to your list. You should never discourage applicants from applying for housing and having you assess their needs. You should give them a realistic assessment of the likelihood of you offering them a house and provide them with information about other housing options that are available to them. [Section 3.6](#) looks at housing options advice and prospects information in more detail.

So, you cannot leave anyone out from your housing list if they are aged 16 or over. This means that you can make allocations from a fully inclusive list that includes both housing needs and aspirations. Equally important, a fully inclusive list means that you will have accurate information about housing demand in your area.

Information Point: Rights of non-UK nationals

In Scotland, anyone can apply for housing as long as they are aged 16 or older. This includes all non-UK nationals (asylum seekers, refugees, EEA nationals, Commonwealth citizens and people subject to immigration control).

The right of non-UK nationals to housing and assistance with homelessness is a complex area. Many refugees, EEA nationals, Commonwealth citizens and people subject to immigration control are entitled to both housing and assistance with homelessness, while some are not. Eligibility depends on a large number of factors including nationality (including that of family members), economic activity of the applicant and that of their family members, compliance with the workers registration scheme for A8 nationals and the workers authorisation scheme for A2 nationals, immigration status and rules around asylum and immigration; and entitlement to public funds.

Registered Social Landlords are not in the same position as local authorities. Unlike those authorities they don't have to take into account nationality, immigration, economic or other status when allocating homes.

You may need to consider arrangements where local authorities and RSLs work together in a CHR.

Asylum seekers

*Asylum seekers are entitled to be admitted to a social landlord's housing list but they have no **right** to be given a full or short Scottish secure tenancy.*

Further information on entitlements to housing, based on people's immigration status can be found at <http://www.housing-rights.info/scotland/>.

3.2 Information for applicants

A first step for landlords in providing fair and open access to their housing lists is making sure that they have good information and advice in place. You should consider how you are going to make sure that applicants are aware of how to apply for your houses and how you allocate them.

There are lots of ways of doing this and you can decide what suits you best. You need to think carefully about the information you provide. You should aim to give information that is written in plain English, easy to understand, up to date and gives applicants the information they need. This should be in a format that takes account of the needs of applicants and is accessible. Research into applicants' perspectives of allocation schemes in 2007, [*Improving Access and Maximising Choice: the applicant's perspective of allocation schemes*](#), suggested that there was a general lack of understanding about how allocation systems work and that this appeared to fuel dissatisfaction. It is in your interest, and the applicant's, to make sure that the information is as clear and straightforward as possible.

You may wish to think about promoting your services, for instance by contacting local organisations representing, or providing advice to, people from equalities groups. You could seek advice on the best way of getting information out to people and how you could promote awareness of your services. Having finished an equalities impact assessment while developing or reviewing your allocation policies will help you to do this (see [section 1.6](#)).

Not all applicants will have English as a first language, and many people within your communities may find it difficult to access information in standard formats. Some applicants, for example, may not be able to read the application form, because of literacy problems, visual impairments or learning difficulties. You should consider whether a home visit is appropriate in such circumstances or whether a carer or member of staff can fill out forms on behalf of the applicant.

If an applicant has a mental disorder you should take account of an individuals' competency to understand and enter into a tenancy agreement; in determining suitable accommodation; and determining the level of support they need to ensure a successful outcome. The Mental Health (Care and Treatment) (Scotland) Act 2003 places a statutory duty on public bodies to provide the right of access to independent advocacy to any person with a mental disorder. You should clearly identify the advocate or person with an appointed power of attorney on their application on the housing list or register and you should communicate with them as required. You should also record this information on your housing management systems to make sure that necessary information, for example rent statements and increases and access for gas safety checks etc is managed correctly.

Understanding the ethnic profile and communication support needs of your community and of those who are applying will help to make sure that you give information and advice in a way that meets their needs so that they can access your housing. Considering the cultural, religious and social needs of housing applicants from black and minority ethnic communities and meeting with representative organisations to explain the benefits of housing in your area will help to encourage applicants from such communities.

The Scottish Accessible Information Forum provides tips on how to do this on its website: [Scottish Accessible Information Forum](#).

In terms of lesbian, gay, bisexual and transgender people you will find good examples of the issues they face in accessing social housing in the Stonewall/Scottish Housing Regulator reports:

- [Understanding the housing needs and homeless experiences of Lesbian, Gay, Bisexual and Transgender people in Scotland: a guide for social housing providers](#) (published 2009); and
- [Recognising and Addressing Homophobic and Transphobic Harassment: A Guide for Social Housing Providers and Homelessness Services](#) (published 2009).

As with all aspects of advice and information for tenants and prospective tenants, when giving housing options advice you should have in mind the Scottish National Standards for Information and Advice Providers. These standards cover issues such as: management and planning of services; accessibility and customer care; joining up with other service providers; staff competency requirements and resource planning. More information is available at [Scottish National Standards for Information and Advice Providers](#).

3.3 Application packs

You should think about what information applicants need to help them understand how you allocate your houses and to help them make an application. At the very least you should consider including:

- a summarised, easy to understand version of your allocation policy;

- the application form and a guide on how to fill in the form;
- details of your stock and turnover; and
- details of where to get help.

Application forms should be accessible, as clear and jargon free as possible and available in other languages and formats. You should include information on where to return the form as well as relevant supporting information and documents. You should consider offering assisted form filling for those applicants who want it. This has advantages for you and applicants - it makes sure that the applicant fills in the forms correctly and that they supply all of the necessary information. This will cut delays and can help the applicant understand the process better.

Involving tenants/applicants in developing and 'road testing' the information you give applicants will allow you to get a service user's point of view on how understandable and accessible it is.

3.4 Managing expectations

Making an application is just the start of the process for applicants. Research carried out for the Scottish Government, referred to in [section 3.2](#), suggests that applicants' experience with staff has an influence on their view of the system. So, by improving customer service you can make the experience of applying for housing more positive.

Generally people are applying for your houses because they are in housing need and as a result are facing problems. Giving applicants the opportunity for face to face contact with staff who can talk about their application and their prospects for housing can improve their experience and help manage their expectations. Keeping information on the applicant's communication needs and wishes and making sure that staff have time to deal with applicants' issues and concerns will also have a positive impact.

You need to think about how you will make interpreting services available and how you advertise this service widely (in community languages). British Sign Language users will also require interpreting services. Relying on family or friends to act as interpreters denies the applicant confidentiality and may inhibit full disclosure of their circumstances. You should never use children as interpreters.

It is important for managing expectations that applicants know what to expect after they submit their application form, for example:

- when their application will be processed;
- what extra information will be needed;
- when you will next be in contact with them and the contact they can expect throughout the allocation process;
- when the application will be reviewed;
- your rules on cancellations and suspension; and
- their right to appeal against any decision.

3.5 Information to applicants on their application

Most of all, applicants want to know when you are likely to house them. So, you need to give them realistic assessments and manage their expectations by providing good information, in plain English. You may also want to provide opportunities for applicants to speak with staff about their application. Information you provide could include:

- up to date factual information about supply and demand;
- how long on average people in similar situations had to wait - although this may not necessarily be an accurate reflection of how long they will need to wait and you should consider making this clear as part of the information you give them; and
- turnover in the area they want to live.

The availability and provision of up to date and detailed information about your stock and its availability will help applicants make informed and realistic choices about their housing options. Applicants need to know about turnover (and what this actually means about how long they are likely to wait) in particular areas and what house types are likely to become available at the time the application is made. There is a key role for landlords in managing applicants' expectations. For instance the aspiration of many applicants may be a main door house, but if you no longer own any in the areas they want to live or you only have a handful and they rarely become vacant, they need to know this.

3.6 Housing options and prospects advice

You are not going to be able to house everyone who applies to you for housing. You should provide support to applicants to make realistic choices and find suitable housing to meet their needs, outwith the social sector where appropriate. This is where [housing options](#) comes in.

The first step in maximising choice is making sure you know what the applicant actually wants and you need to gather up to date, detailed and accurate information. Your applicants should be able to be specific about the location and type of housing they want you to consider them for. You need to record not just basic information such as house type and area as applicants may have other preferences that you should record. This could include being near bus routes, schools, religious or community facilities. There may be very good reasons for them not wanting to live in certain streets, for instance from fear of harassment or just not wanting to be near an ex-partner. Applicants should not be penalised for refusing a property in an area where there is a good reason to do so but you may then wish to talk to applicants about how this will affect their chances of being housed.

There is a wide range of housing options and many people may not be aware of them. You should consider moving towards an approach where you give person centred advice on the full range of housing options available in your area. When providing advice on a person's housing options, the advice must reflect the person's circumstances and the options that are realistic for them to pursue at that time. Re-

housing in the social rented sector is not the only solution to everyone's housing problem and may be the wrong one for some people.

In employing a 'housing options approach', you should allow staff to give advice and help not only about the likelihood of being re-housed in the social rented sector but also on:

- private sector letting;
- incentive schemes for first time buyers;
- shared equity;
- supported accommodation;
- adaptations - to help them make the current house work; and
- downsizing.

We encourage you to take a housing options approach. Effective housing options advice gives people a full picture of what is available to them and helps them identify the best solution to meet their needs. In many cases it can be an opportunity to avert a housing crisis. Good housing options advice is important. We recognise providing such advice may be more difficult for small organisations but working with other housing providers and across local authority boundaries gives more opportunities to provide effective housing options.

In delivering housing options advice it is important that you explain the potential short, medium and long term financial implications to the applicant. If you, as an RSL, have reason to believe an applicant is homeless or at risk of homelessness you should make them aware that the local authority has a duty to carry out a statutory assessment. RSLs should advise applicants to seek help from their local authority, but this should not prevent the RSL from taking an application.

You may want to consider whether you could usefully work with other landlords in your area to agree a joint approach to providing information and advice to applicants. This could be as part of a common housing register or as a separate agreement. This has advantages for both applicants and landlords:

- applicants can receive information about all housing options in their area from one source;
- you can improve the quality and quantity of advice and information by working together; and
- you can more cost effectively give information and advice if you pool resources - for example with training, printing and translation costs.

3.7 Managing your housing lists

Alongside your allocations policy you will have processes and procedures to support staff. These will make sure that you deal with applications fairly, consistently and within suitable timescales in each stage of the process. Such procedures put staff discretion within clearly defined limits. In developing them you will want to consider a range of issues including verification of information, references, reviews and cancellations.

(a) Verification

It is up to you to develop a framework for verifying applications and to decide what evidence you ask for to corroborate the applicant's circumstances before prioritising their application. You also need to make a judgement about the best time to do it. Some landlords will ask applicants for proof when they apply to verify their circumstances. Others look for it once they have selected the applicant for housing or use a combination of both approaches. Any of these are right depending on the time between the application and the offer and how often you review the applications on your list.

Although you need a robust verification framework, you should make sure that you do not make unreasonable or onerous requests. In cases involving harassment or risk of domestic, sexual or other abuse, you should never ask the alleged victim for corroboration. Where there is no corroborative evidence available in situations like these, it is good practice to take the applicant's stated fears as enough evidence.

Admission to the list should happen at once. You need only ask for basic verification to establish an applicant's identity and age before adding an application to a list.

If you choose to ask for more information at this stage to assess the applicant's need you must do this quickly. You should avoid lengthy delays in getting their application onto the list and ready for you to consider them for housing. To speed up the process you may wish to add the applicant to the list at once rather than waiting until you have received **all** the information you are seeking to establish need.

Where evidence is not available at once you can choose to prioritise the application as if you had received corroboration. In this case you would make sure that the applicant is aware that you will need the evidence before they are re-housed. This approach means that you can add applicants in urgent housing need to the list without delay.

Under the 2001 Act one of the grounds(1) for which the courts may order recovery of possession includes where you granted a tenancy as a result of false information from the applicant. You should carefully consider the questions you ask when someone applies for a tenancy and make sure there is no opportunity for a tenant to leave out relevant information.

(b) References

Most landlords will seek references from the applicant's current and former landlords. Some landlords have data sharing protocols with neighbouring landlords for exchanging tenancy references. You should **always** seek references with the applicant's consent. This can be a good way to verify the applicant's circumstances and give you information that you need to deal with their application.

There are certain circumstances when you can suspend an applicant, who isn't homeless, from receiving offers, for instance if they have rent arrears and are not making payments towards them (see [section 1.3 \(b\)](#)). You can use the reference to get this sort of information. But, you should always take personal circumstances and the extent of housing need into account before suspending offers of housing.

You may want to consider whether you should take up references from private landlords. Private landlords may not keep detailed tenancy records and there could be doubts about the quality and reliability of the information. Some applicants may not have been able, for example, to get their private landlord to agree an affordable or reasonable repayment agreement for their arrears.

In any case the Scottish Housing Regulator has regarded it as poor practice for you to:

- put the onus on the applicant to get references and/or meet any charges; or
- take up references for tenancies that ended more than 3 years ago.

The CIH Guide "Suspending Housing Applicants: A Practical Guide" gives more information in this area. References that go back more than three years may not provide a useful indicator of whether an applicant is currently suitable for a tenancy or not. Also, generally speaking, when it comes to debt the older it is the less you should use it as a reason for suspension. If a debt has been outstanding for more than five years it is generally not possible to recover it and you should no longer use it as a reason for suspending an applicant from receiving offers of housing.

(c) Reviews

You need to review your housing list on a regular basis to make sure that you have up to date information about your applicants. It is up to you to choose when to review your list and many landlords run a rolling programme, contacting the applicants on the anniversary of their application. Others review information every time an applicant contacts them.

Some landlords simply ask applicants if they want to stay on the list. This approach can result in unsuitable offers of housing and delays in letting houses if you do not have the up to date information about applicants' needs and preferences.

To avoid these problems, you should consider letting applicants know what information you have about their housing need and preferences, and ask them to let you know if anything has changed. This gives applicants an opportunity to update their application to reflect changes in circumstances or lettings preferences. You can also make it easy for applicants to respond to reviews. Many landlords give freepost envelopes, or allow applicants to phone or register their wish to stay on the list or change of circumstances by email.

It would also be helpful to encourage applicants to let you know of any changes that may affect their application and their priority outside of the regular review. You could do this by running regular reminders in your newsletters, or with posters in your offices.

An effective approach to reviewing applications for housing helps you run your allocations process efficiently. It minimises offers to people who have moved away or who you no longer need to re-house. It also makes sure that you have an accurate picture of housing need and demand.

3.8 Cancellations

There are a very limited number of circumstances in which you can remove an applicant from your housing list. These are:

- the applicant asks you to cancel their application;
- the death of an applicant; or
- the applicant repeatedly fails to respond to a review of the list or to other correspondence.

It is for you to decide on the process for managing applications from those who fail to respond to reviews or other correspondence. But, it would be good practice not to cancel an application simply because an applicant doesn't respond to a single letter. If you don't receive a reply, you should consider sending a follow-up letter, asking for a response, and stating clearly that you will cancel the application if they don't get in touch. At the same time you need to be aware of, and respond to, any barrier that may prevent applicants from responding. Such barriers could include literacy or language problems, or the fact that the applicant has no fixed address and is moving from place to place.

You should have a clear mechanism in place for applicants to ask that you reinstate them on the list. This should be a simple process with no need for applicants to have to fill in a new form.

There are circumstances where it would seem unreasonable to automatically cancel a housing application. For example where:

- another landlord houses the applicant. They may still have a housing need, for instance they may have accepted a house because they will no longer be overcrowded but they may need to live closer to family to receive support; or
- applicants apply to buy their house: Under the Housing (Scotland) Act 1987 (as amended) you cannot take ownership into account when allocating your houses (see [section 1.3 \(e\)](#)).

In cases like these, you should ask the applicant if they want you to cancel their application, or if they want simply to register a change in circumstances.

3.9 Suspensions

Under housing law, you cannot suspend applicants from the housing list. But you can suspend applicants **from receiving offers** of housing until you have all the information you need. You cannot, however, suspend homeless applicants from receiving offers of housing (see see [section 5.1 \(a\) \(i\)](#)).

If you choose to suspend offers of housing you need to make this clear to the applicant. You need to tell them that you need this information and that unless you get it you cannot offer them housing. However, it is good practice to monitor these applications and do as much as you can to minimise the time they are suspended.

You can find more information on suspensions at the following:

(a) Reasons for Suspension

So, why and when would you suspend an applicant from receiving offers of housing? The CIH guide gives detailed guidance on a range of reasons that landlords give for suspending applicants. However the most commonly used are:

(i) Applicants with debt

The 1987 Act (as amended by the 2001 Act) is clear that you cannot suspend an applicant who has arrears or a tenancy debt which is equal to more than a month's rent as long as they have made a repayment agreement and they have kept to this for three months.

There has been some uncertainty amongst landlords about whether they should apply the same rules about tenancy debt to applicants and existing tenants who are seeking a transfer. Some landlords expect existing tenants to pay their arrears and other tenancy debts in full before they will consider them for re-housing. The legislation does not spell out the difference. Section 20 of the 1987 Act (as amended) requires you to adhere to your rules when selecting tenants for all houses held by you. The law applies equally to transfer and direct applicants for social housing in terms of the reasonable preference groups. It is the expectation of the Scottish Housing Regulator that you apply section 20 rules to all applicants equally. The law does not prevent you from treating transfer applicants differently in terms of any additional local needs factors you may apply.

For applicants with tenancy debt it is important that any repayment agreement is realistic. Although some landlords have struggled with how to define 'reasonable' or 'realistic', the emphasis should be on the applicant's willingness to address the debt and come to an agreement to do so. You should base any agreement on its affordability to the applicant rather than the level of debt.

You should be wary of adopting too rigid an approach to suspending applicants with arrears. You should make efforts to take into consideration why the arrear has arisen. The urgency of the applicant's housing need should be of paramount importance. When you house an applicant with a history of arrears this should be a trigger for more intensive housing management to prevent the problem recurring. You may want to consider:

- early and sustained personal contact;
- debt counselling/money advice; and
- signposting to advice agencies.

(ii) Applicants with a history of anti-social behaviour

Landlords often use a history of anti-social behaviour as a reason for suspending applicants from receiving offers, and this can be a warranted course of action. Anti-

social behaviour is a term that can be used to refer to a wide range of actions and behaviours (see also [section 5.2 \(b\)](#)).

You should avoid adopting a blanket approach of suspending offers of housing to everyone who has had a Notice of Proceedings for Recovery of Possession or had proceedings raised against them as this could be seen as judging an applicant before a court has done so. The Chartered Institute of Housing suggests that when considering suspensions you should apply the same criteria as the 2001 Act for eviction, namely:

- the extent to which the conduct is because of acts or omission of people other than the tenant;
- the nature, frequency and length of the conduct;
- the effect the conduct is having on other people; and
- any other action taken by the landlord to address the conduct.

You also need to consider the purpose of the suspension. Will preventing an applicant who has a history of anti-social behaviour from accessing housing address the issue? Would it be more suitable to give housing with support or to give a Short Scottish Secure Tenancy in order to help the applicant modify their behaviour? The power to downgrade a tenancy from a Scottish Secure Tenancy (SST) to a Short Scottish Secure Tenancy (SSST) is a clear signal to tenants that with rights come responsibilities.

Information Point

Section 34 of the 2001 Act gave you, under grounds set out in Schedule 6, the power to give a Short Scottish Secure Tenancy (SSST). This includes to persons who landlords have evicted for antisocial behaviour in any part of the UK and from any tenure. You can also offer it to tenants and household members who are under an antisocial behaviour order (ASBO). In both cases you must give support to tenants to help them sustain the tenancy and convert it to a full Scottish Secure Tenancy (SST). These tenancies convert automatically to a full Scottish Secure Tenancy (SST) after 12 months, if there has been no repetition of antisocial conduct. You can raise proceedings for recovery of possession of the house under a SSST after serving a notice on the tenant and if the tenant refuses to leave, the courts must give an order for recovery of possession if you have observed the correct procedures.

SSSTs benefit tenants by giving them a second chance to sustain a tenancy and help landlords who want to give antisocial tenants a chance to rehabilitate but who are wary of offering a permanent tenancy for fear that the offending behaviour may recur. They are also reassured that if the antisocial behaviour does recur, the tenancy can be ended speedily.

You can find guidance on the use of SSSTs [here](#)

(iii) Applicants who have refused offers

Many landlords impose a limit on the number of offers that an applicant can have before they suspend their application. They argue that if they didn't do this the same applicants would keep on coming up for offers and abortive offers mean increased void times and rent loss. This is a valid concern but you may avoid it by making sure you have detailed, accurate and up to date information about what your applicants want.

Good practice suggests that you should minimise suspensions from the list for refusing offers. An alternative to suspension is to use the refusal of two offers as a trigger for a review interview with the applicant to talk about preferences and options.

(b) Minimising Suspensions

Using suspensions as a tool to encourage people to pay their arrears or change their behaviour is an understandable response. Managing tenants with challenging behaviour or who repeatedly fall into rent arrears costs the organisation money and there is a lot of pressure on landlords to keep a tight financial control over their operations. But, you have to weigh such an approach against the fact that you should be contributing to the public policy aim of minimising or preventing homelessness and be providing services that are inclusive and accessible to people who are poor or vulnerable.

It is good practice to minimise the use of suspensions. Remember that when you are imposing suspensions you are excluding people in housing need from being re-housed. You therefore need to consider:

- Do you have robust evidence for making this decision?
- Is it a proportionate decision?
- Have you considered the consequences for the applicant?
- Have you considered other options to suspension, such as taking a proactive approach to managing the problem rather than excluding?

(c) Managing Suspensions

(i) Information for applicants

You need to make sure that all applicants are aware of your approach to suspensions and what this means. You should include this in the explanatory information you give applicants.

Once you have decided to suspend an applicant from receiving offers you need to tell the applicant, in clear terms:

- why you are suspending their application;
- what this means, for example that you will not consider them for housing;
- how long the suspension will last;
- what they have to do to have the suspension lifted; and
- about their right to appeal.

You need to tell applicants about your decision to suspend them from receiving offers as soon as you make it. You shouldn't wait until you reach them for an offer and bypass them, to give them a chance to take action and have you lift the suspension. And you should continue to remind them, when you carry out your annual review, that you continue to suspend them from receiving offers of housing.

(ii) Monitoring suspensions

It is important that you have a monitoring system in place to help you manage your suspensions, to make sure that you lift time-limited suspensions when the time period has elapsed and that you regularly review other suspensions. You also need to run your suspension in an accountable and transparent way and to monitor your approach to make sure that suspensions are operating satisfactorily. You may therefore want to monitor:

- the number of applications suspended, and for what reason;
- the number of appeals against suspensions and outcomes; and
- the number of reviews of suspensions and outcomes.

There is no legal requirement to monitor the sex, ethnicity and disability of suspended applicants but it might be helpful to do this.

3.10 Monitoring

To help you assess and continuously improve your performance the Scottish Housing Regulator has provided you with a range of material, including a range of self assessment questions. You should consider the following questions on access to your housing:

- Do you ensure equality of access for all applicants to your full range of housing stock?
- Do you promote choice throughout your allocation processes?
- Do you empower applicants to make decisions about where and in what type of accommodation they wish to live?
- Do you promote fair and equal access to your housing list?
- Do you actively and widely publicise the means by which people can apply to your housing list?
- Have you eliminated restrictive practices, such as screening of application enquiries, limiting distribution of application forms, etc.?
- Can people apply and be assessed at any time?
- Do you admit all applicants who are aged sixteen or over to your housing list?
- Do you minimise cancellations from your housing list and suspensions of applicants from receiving offers of housing?
- Do you actively manage your housing list to ensure that it is accurate and up to date?

- Have you reviewed your access arrangements to ensure that they contribute to the prevention, and resolution, of homelessness?
- Do you ensure that your access arrangements have a service user focus?
- Do you provide information and assistance on accessing housing for those who do not have English as a first language or who might have other difficulties in applying?
- Do you provide applicants with accurate and timely information to allow them to make informed judgements about their housing options?

3.11 Practice Examples

Real experiences and approaches Scottish social landlords use around access to housing are set out in the practice log:

- [**English as a second language**, Shetland Islands Council \(March 2011\)](#)
- [**Black and Minority Ethnic Advice Coordinator**, Arklet Housing Association \(March 2011\).](#)
- [**Happy to Translate**, Trust, Hanover Scotland and Bield Housing Associations \(March 2011\).](#)
- [**Allocations surgeries**, Bridgewater Housing Association \(March 2011\).](#)
- [**A factsheet for applicants**, Knowes Housing Association \(March 2011\).](#)
- [**Home Finder Team's role and housing options across local authority areas**, Castle Rock Edinvar Housing Association \(March 2011\).](#)
- [**Housing Options and Personal Housing Plans**, Perth and Kinross Council, \(March 2011\).](#)
- [**Housing Options Guide**, North Lanarkshire Council \(March 2011\).](#)
- [**Rent arrears and early face to face intervention**, Stirling Council \(March 2011\).](#)

4. Working with others to simplify and maximise access

You have to work with partners, other landlords and agencies, to make it easier for those in need to access housing in your area. In most areas there are several housing providers so applying for housing that suits an applicant's needs can be a complex process. There are a significant number of opportunities for joint working at a local level and some are fundamental to good practice. In the case of responding to a section 5 referral, for example, joint working is necessary to re-house homeless people.

You should also maximise choice for applicants when allocating houses. This isn't easy, in the real world, where demand significantly outstrips supply but there are steps you can take to make sure that you give applicants as much choice in where they live as possible. This makes sense as tenancies are more likely to be successful and sustainable where the houses you allocate to applicants meet their needs and their aspirations. Giving applicants choice, then, has important implications for housing management and for preventing homelessness.

4.1 Common Housing Registers (CHRs)

The 2001 Act encouraged you to examine the options for setting up a common housing register in your area. Since then you have set up 18 CHRs in Scotland and many more are under development. The Scottish Government has said in "[Homes Fit for the 21st Century](#)" that CHRs which offer choice-based lettings should become the norm across Scotland. We want to see CHRs across Scotland so that in every local authority area there is a single access route for applicants and a single database of all applicants.

Common housing registers make it easier for people to apply for social housing. Instead of filling in separate applications for each landlord in a specific area, applicants fill in one form and join one common housing list that a number of social landlords use to allocate their housing. The size and scope of CHRs varies throughout Scotland but typically they share three main components:

- a single application form for all applicants;
- a single database for all applicants seeking housing; and
- a joined up approach to providing housing information and advice.

Some social landlords have gone even further and introduced shared procedures for assessment of need and developed shared or common allocation policies.

We recognise the challenges of developing CHRs, which can take many forms, and have published an on-line guide to CHRs [CHR Guide: Building a Common Housing Register: A Practitioner's Guide](#). This contains more details on the benefits of CHRs for both you and applicants and aims to provide you with a toolkit for developing CHRs, and shares examples from across Scotland.

4.2 Choice Based Lettings

Some landlords are moving away from a points based housing list in favour of a choice based lettings system (CBL). There are around 8 CBL schemes currently operating in Scotland. There may be some advantages to letting your houses this way - more choice for applicants, some evidence of increased tenancy sustainability and less bureaucracy. The Scottish Government supports maximising choice for applicants for social housing.

But, if you opt for a CBL system you still need to meet the same legislative and regulatory rules when letting your houses as you would if you had a traditional points, or group plus points based scheme. Maximising access, meeting housing need and allocating your houses in a fair and equal way must remain the underpinning principles of whatever allocation system you use. So, the information in the sections of this guide on the legislative framework and regulatory standards, developing a policy and access to housing are also relevant for choice-based systems.

The fundamental theory behind CBLs is that applicants need to take the initiative in securing a house. No CBL system is exactly alike but key features of those operating in Scotland are:

- applicants fill in a simple registration form to join the register;
- extra priority is provided through the award of time limited passes in a number of broad priority bands;
- landlords advertise vacant properties and applicants make a bid for those that they consider meet their preferences and needs;
- an individual list is made of all bids received for each advertised property;
- an offer is made to the applicant with the highest level of priority pass, followed by the applicant who will make best use of the property, then the applicant with the earliest date of registration; and
- landlords give feedback on lettings outcomes to help applicants understand their likelihood of success when bidding for other properties.

[Section 8 of the CHR Practitioners Guide](#) gives you information and shares the practical experiences of landlords in managing choice based letting schemes and Common Housing Registers.

(a) Open access

You need to make sure that **all** applicants can access the information about how to apply for housing. Ask yourself:

- Is the publicity clear and easy to understand - have you checked this with service users?
- Have you considered the needs of those who cannot easily access your information: for instance those who are blind or partially sighted; who have learning disabilities or who do not read English?

- Have you spoken to organisations representing these groups to talk about how you can reach these applicants?
- Have you considered the use of Braille, other formats such as large print and translations or making information on properties available to applicants by freephone?
- How do you advertise your properties? - Many CBL schemes rely to a large extent on web based information which may restrict participation by applicants who have problems accessing or operating a computer. Recent results from the Scottish Household Survey suggest that older people and disabled people are less likely to access the internet and you will therefore have to consider how to support these groups to access the scheme. Likewise if you use a scheme which relies on local papers to advertise vacancies, how do you make sure these are widely accessible? Could you consider posting details out to people who have problems accessing them, such as people who are confined to their home?

(b) Extra support for vulnerable applicants

CBL schemes require applicants to be proactive. Many applicants, for very many reasons, will have difficulty doing this. So you need to consider building in ways to allow everyone to take part on an equal basis. In some cases it may be a matter of making sure that you make information or advice available in translation or in other formats, or delivering written material directly to people who are confined to their house. But, for some applicants with severe learning disabilities, acute mental health problems or chaotic lifestyles, may require more intensive support throughout the process.

But you shouldn't make blanket assumptions about who needs help or support, you shouldn't assume just because someone is disabled or in another equality group that they need help to take part in choice based lettings. And of course many people who need help and support won't be in urgent housing need and fall into the reasonable preference categories.

So how do you identify potentially disadvantaged applicants? You should consider a range of measures, for example:

- monitoring bidding data to pinpoint potentially high need applicants who are failing to bid for vacancies;
- working with health and care professionals;
- engaging with advocacy groups and agencies that represent equalities and diversity groups;
- providing briefing sessions with staff on military bases, hospitals, hostels and prisons; and
- working with social workers working with looked after children.

You need to work together with legal and voluntary agencies in their areas to identify which groups of applicants are likely to need help to choose housing to meet their needs and work together to develop and give the type and level of help that they need.

You need to give thought to providing direct help to applicants who need it by providing specialised customer support staff to guide them through the process. However you have got to make sure that if you, as a landlord, are acting as a proxy bidder for vulnerable applicants that you don't unduly influence them or put pressure on them to make bids that do not meet their needs or aspirations. Case study research [Monitoring the Longer Term Impact of Choice Based Lettings](#) reported significantly higher rates of tenancy refusals and lower sustainment rates from proxy bids.

(c) Reasonable Preference

Many CBLs only ask applicants to fill in a simple registration form and only assess the needs of those who apply for extra priority. This has drawbacks - it relies on applicants fully understanding the process and taking a proactive role in making sure that you give their application priority.

To make sure that you are aware of the housing needs of people who are applying, you shouldn't just rely on the fact that you are **providing information** on extra priority (for instance through your application pack, leaflets etc). You should therefore:

- ask every applicant basic questions which would flag up whether they may have needs that fall into the reasonable preference categories;
- always assess applicants where the answers are positive; and
- always seek further explanation if the answers are uncertain.

(d) Giving priority status

Landlords usually award cards or passes for applicants they judge to have priority status in a CBL system. This reflects the urgency of their need and overcomes the disadvantages that such applicants might face in an open market system.

When awarding priority it is important that you consider the reasonable preference groups set out in law and decide what provision to make for the different strength of needs within each category. You have to consider whether the way you run your CBL scheme allows you to meet your legal duties on homelessness. You should not use predetermined time limits on passes to justify that you have discharged your duties. You may need to consider options such as:

- operating a different system for allocating properties to homeless people to whom they have a duty to house;
- dedicated support for homeless applicants to help them navigate the system and make realistic choices; and
- having a failsafe mechanism to allocate a property to applicants where they have not used their priority pass.

You should also consider whether and how to take into account multiple needs of the applicant and/or their household. If you do decide to take multiple needs into account

you will need to consider whether to undertake a cumulative needs assessment (see the information point in [section 5.2 \(a\)](#)).

(e) Waiting time

In many CBLs 'date of registration' (how long applicants have been on the list) is a key factor in determining which applicant is successful in getting a let. You can take waiting time into account when allocating houses but this must not affect your ability to give reasonable preference to applicants in the legal needs categories (see [section 1.3](#)) and it must not dominate your lettings outcomes.

(f) Restrictions on choice

(i) Time limits

Many landlords impose time limits on priority passes which mean that applicants only have priority over other applicants on the housing list for a restricted time. However time limits should be reasonable and appropriate. They are most appropriate for applicants with an urgent need to move - for instance victims of domestic abuse or hate crime. They are less appropriate for applicants who have specific, long term housing needs and who may have to wait a long time before housing to meet their needs becomes available, such as disabled applicants who need specially adapted housing.

You may use time limits with the valid aim of minimising the amount of time people spend in temporary accommodation. But, a knock on effect of this could be that homeless applicants are in a position where they have no real choice but to bid for properties that are in low demand that may be unsuitable for their needs and this in turn may restrict their ability to sustain the tenancy.

Time limits should reflect the time that it is likely to take for housing to become available that actually meets the applicant's needs. You should not use time-limited priority as a means to pressure applicants into moving to properties which are unsuitable. If an applicant fails to use their priority pass within the set timescale, this shouldn't result in an automatic withdrawal of priority. Rather, you should use it as a trigger to think again about the applicant's needs and extend the time limit where necessary, and talk to such applicants about housing options to help them make realistic choices.

(ii) Categories of applicant

Landlords often use advertising criteria to suggest what type of applicant can bid, or is excluded from bidding, or who the landlord will give preference for a property to. They do this to match applicants most appropriately to the stock available, for example to match applicants with mobility issues to accessible housing. This is one approach to make best use of stock and to help applicants make appropriate bids. But these shouldn't be factors that the law says you must not take into account (such as the age of applicant).

Some landlords specify in the advert that only certain categories of applicant can apply for a house. For instance, only applicants who already have a social tenancy or who own their own home. Landlords who choose to do this need to have clear rationale about why they have made the decision to impose such restrictions and make sure that such properties are a cross section of those available to let. It would be poor practice to impose such restrictions on high demand properties and restrict access to these areas to applicants in high levels of housing need.

(g) Outcome information for applicants

One of the key features of CBL schemes is that landlords publish the outcomes of the bidding process. This may help applicants to understand how likely they are to be successful when they bid in future. It may be useful for you to consider providing clear and understandable information on:

- the number of bids for particular properties;
- which groups were successful; and
- the frequency of properties becoming available by area and type.

One word of caution: when publishing information on the bidding outcome for particular properties, you need to do it in such a way that you do not reveal the identity and personal circumstances of the successful applicant. You need to think about where you publicise this information - on your website? In your offices? In publications? You also need to make sure that your staff have access to this information and are trained to use it to give realistic advice to applicants.

(h) Monitoring CBL

Effective monitoring is vitally important in CBL schemes. You obviously want to monitor it in terms of housing management performance - time to process applications, re-let times and refusal rates. CBL can help to speed up re-let times because of a reduced number of refusals and the time management discipline associated with the advertising cycle. This increased efficiency is a vital business consideration. However you also need to make sure you are meeting your duty to give priority to applicants in the reasonable preference categories and meeting your equalities duties. The proactive nature of choice based lettings means that it is particularly important to collect and use equality and diversity data to make sure that these groups are not being disadvantaged. You should consider monitoring:

- Who is applying? Does the profile of the applicants on your register match the profile of the community you serve?
- Equalities - there is no legal requirement to monitor the sex, ethnicity and disability of applicants, but you might find it helpful. Doing so will allow you to address any equalities issues in accessing your housing.
- How effective are the mechanisms you've put in place to support applicants who may have difficulty participating in a CBL system?
- Patterns of bidding - the proportion of applicants bidding at any one time compared with the whole list: proportion of applicants in various categories

(for example homeless, other needs groups, 'assisted' applicants and applicants in the diversity groups) who are not bidding and reasons for not bidding;

- Lettings outcomes - the proportion of lets going to applicants who are homeless and in the legal preference categories;
- Tenancy sustainment - are tenancies lasting longer through choice based letting?
- Applicant satisfaction - This is difficult to test but is nevertheless important. While it is valid to check satisfaction levels of those who you successfully house through a CBL system, you also need to measure the satisfaction of those who are on the register and have so far been unsuccessful and find out their views on how easy the system is to use and understand.

(i) Useful references

The following link may be useful if you are considering introducing a Choice Based Letting scheme:

- [Monitoring the longer term impact of choice based lettings](#) (Department of Communities and Local Government, 2006)

4.3 Nominations and Section 5 Referrals

(a) Nomination Agreements

Historically local authorities have often 'nominated' tenants from their own lists to an agreed percentage of a housing association's annual vacancies. Nomination agreements are not based in statute, so can involve voluntary organisations and partners are free to agree the terms of the agreements. But it is good practice to make sure that any such agreements have clear aims and are based on a robust analysis of need and demand. There also needs to be clear guidelines for accepting or rejecting nominees and for resolving disputes.

(b) Section 5 Referrals

Section 5 of the 2001 Act gave RSLs the duty to house statutory homeless people. RSLs have to meet section 5 requests from local authorities unless there are good reasons not to. There is [guidance available on good reason and the time period](#) within which local authorities and RSLs should reach agreement. In summary, good reason is where:

- an RSL is unable to make suitable housing available within 6 weeks of the request; or
- the only housing the RSL has available is of a particular nature (for example sheltered housing for older people) and this is not suitable for the applicant.

There are no other grounds for a RSL to refuse a section 5 referral. RSLs cannot use any other terms of their allocation policy for refusing to deal with a section 5 referral.

RSLs should make sure that their allocation policy reflects arrangements for section 5 referrals.

Councils and RSLs can agree to offset section 5 referrals against nomination quotas, but they do not have to. The achievement of a quota is not a 'good reason' for refusing a Section 5 referral.

RSLs and councils should work in partnership to make sure there is a common understanding of each party's duties and responsibilities. They should also put in place effective agreements/protocols for their operation. The Scottish Federation of Housing Associations and the Convention of Scottish Local Authorities have developed a model protocol. You are free to develop one which meets the needs of your local area as long as it meets the legal requirements.

4.4 Protocols

Many landlords have set up protocols or formal working arrangements with partners. These give details of how they will work together in a coordinated way to make sure that groups of applicants with particular needs or vulnerabilities have their needs assessed and addressed. Groups you may want to consider developing protocols with partners for are:

- young people leaving care;
- people leaving long term hospital care;
- people leaving HM Forces;
- people leaving prison;
- people who have experienced domestic abuse;
- people with disabilities; and
- refugees.

The focus of protocols should be on planning ahead and preventing a housing crisis. Key elements should include:

- developing a shared understanding of the needs of the particular group;
- developing good information and support for applicants;
- ensuring that staff have good understanding of the particular needs of these applicants; and
- planning ahead to access a housing solution and to prevent a housing crisis occurring.

Further information on working together and protocols within an early intervention approach to preventing homelessness are included in the [Code of Guidance on Homelessness](#) and the [Prevention of Homelessness Guidance](#), issued by the Scottish Government and the Convention of Scottish Local Authorities in June 2009.

4.5 Mobility schemes

Mobility schemes aim to increase the ability of social housing tenants to move within their landlord's stock or to another part of the country. They give tenants the

opportunity to identify other tenants who want to move and are willing to consider a mutual exchange. You can make it easier for your tenants by:

- operating your own scheme;
- subscribing as an organisation to a mobility scheme run by a 3rd party; or
- paying for your tenant to join a 3rd party mobility scheme.

In "Homes Fit for the 21st Century" the Scottish Government has stated its expectation that, in the future the majority of Scottish landlords should offer, or be part of, a house swap or exchange service.

4.6 Monitoring

To help you assess and continuously improve your performance the Scottish Housing Regulator has provided you with a range of material, including a range of self assessment questions. You should consider the following questions on working with others to simplify and maximise access:

- Do you work with other landlords/partners to maximise access to housing in your area?
- Have you engaged with your partners on the development of a common housing register?
- Do you work with your partners to ensure statutory requirements relating to the needs of people who are homeless are met?
- Have you agreed a protocol with your partners for dealing with referrals under section 5 of the Housing (Scotland) Act 2001, and do you monitor its effectiveness?
- Are your nomination arrangements effective, do they cater for local circumstances, and do you operate them efficiently?
- Are your partners satisfied with the operation of your nomination agreements?
- Do you have appropriate arrangements with care and support agencies to improve access to housing for those with support needs?
- Do you participate in appropriate mobility schemes?

4.7 Practice Examples

Real experiences and approaches Scottish social landlords use when working with others to simplify and maximise access are set out in the practice log:

- [Homelessness in North Ayrshire, North Ayrshire Housing Register \(NAHR\) \(March 2011\).](#)
- [Support service for vulnerable applicants, The City of Edinburgh Council \(March 2011\).](#)
- [Increasing applicants from and lets to the BME community, Cadder Housing Association \(March 2011\).](#)

5. Deciding to allocate

Given that demand for social housing outstrips supply, you are only going to be able to offer housing to a minority of people who approach you. Knowing your stock and having up to date information on available lets is essential for making decisions about allocations. Once an applicant is on your housing list you then need to assess each applicant's housing need according to their individual circumstances and then prioritise them in line with your own allocation policy.

In assessing need there are a variety of factors you need to and can take into account. Some of these factors the law requires you to include and others you can add at your own discretion to respond to the particular needs and demands in your local area. There are also a number of factors the law does not allow you to take into account in how you allocate your housing. The legislation is set out in [Section 1](#) and [Annex A](#).

This chapter examines current allocations practice and includes secondary factors that you may wish to consider including as part of how you assess needs and decide priority for your housing. The extra factors discussed here are not an exhaustive list and you have discretion to build in other factors, which reflect your local circumstances.

The performance standards, set out in [section 1.5](#), means that you have to make sure that you let houses in a way that gives reasonable preference to those in greatest housing need, which makes best use of the available stock, and helps to sustain communities.

This means that you have to also consider the needs of the individual and neighbours when you make a housing allocation decision. A mechanistic approach which involves making allocations only on the highest points, or a rigid adherence to quotas is less likely to achieve sustainable tenancies and successful communities.

5.1 Allocating houses: Giving reasonable preference in practice

The allocation system is the way in which you hold applicants on a housing register, prioritising applicants to reflect your organisation's aims and stated priorities. This may include you awarding applicants points that reflect their housing need or grouping applicants into bands that reflect different levels of housing need. Some social landlords, who operate choice-based letting schemes, allow applicants to bid for properties they wish to live in.

When allocating your houses you need to give reasonable preference to applicants who fall within the five housing need categories given in law, see [section 1.2](#). These are people who:

- are homeless people or threatened with homelessness; or
- living in houses which do not meet the tolerable standard; or
- are living in overcrowded houses; or

- have large families ;or
- are living under unsatisfactory housing conditions.

As set out in [section 1.2](#) the law does not weight the reasonable preference groups. It is up to you to decide on the relative priority you give to each of the needs groups.

There is no simple definition of reasonable preference which would suit all landlords, it is for you to decide. But, in determining your approach there are a number of factors you may wish to consider. This includes your stock and who is applying to you for housing. To make a decision on what is a reasonable apportioning across the categories of need; you need up-to-date information on demand for your housing and to decide what is reasonable for your context. It is important then to gather effective information as well as monitor and review outcomes. Reasonableness should not be set in stone, but reviewed on a regular basis as demand changes.

Information Point

*You need to look at reasonable preference in terms of your **total lets** across your stock and throughout the year, **not for each individual let**. This means that you can appropriately match the property to the applicant and create sustainable tenancies, at the same time as meeting the requirement to give reasonable priority to the key groups.*

You can interpret the five legal need categories widely. They allow you great flexibility to balance the needs of your communities as well as meeting the needs of those applying to you for housing.

(a) Homeless people or those threatened with homelessness

All social landlords have a duty to give reasonable preference to all people who are homeless or threatened with homelessness. Local authorities also have specific duties to secure settled housing for certain categories of homeless people, and RSLs have a duty to help local authorities to carry out this duty.

The 1987 Act (as amended) defines 'threatened with homelessness' as within two months. However you should begin to work with people as soon as possible to find a housing solution and prevent homelessness.

(i) Local authorities and homelessness

The legislation requires local authorities to secure settled accommodation for unintentionally homeless applicants in priority need. The Homelessness etc. (Scotland) Act 2003 amended legislation by allowing for the abolition of the priority need test and the Scottish Government has set a target date of 31 December 2012.

The [Code of Guidance on Homelessness](#) and [Prevention of homelessness guidance](#) provide guidance on preventing and resolving homelessness. Councils should secure settled accommodation for such applicants as soon as possible, and should minimise any unavoidable period in temporary accommodation.

Local authorities are free to decide how they allocate settled housing to homeless people to whom they owe this duty. They can choose to do this through their general housing list and allocations policy, or they can opt to have a separate list and policy for homeless people. However, whichever approach is used, local authorities should make sure that:

- such applicants are given enough priority to make sure that they secure settled housing quickly;
- they do not apply suspensions of offers of housing to such applicants; and
- they publish the rules that apply to the allocation of houses to such homeless people.

Local authorities with housing stock should make sure that they are making an appropriate level of lets available to allocate to homeless people to whom they have a duty to secure settled housing. **You need to decide what the appropriate level of lets will be for your area, based on information you have on the level of demand in your communities.** The level of lets the authority makes available to secure homeless people settled housing should reflect this level of demand / need and **your strategy for meeting those needs.**

Decisions on the amount of settled accommodation you can make available will impact on the demand for temporary accommodation. All local authorities can increase the supply of settled housing through nomination and/or section 5 arrangements with RSLs. Under the Homeless Persons (Provision of Non-permanent Accommodation) (Scotland) Regulations 2010 local authorities can also use private sector tenancies to secure settled housing for homeless applicants. These Regulations came into force in February 2010.

Local authorities must always consider people's personal circumstances and wishes. In considering what a reasonable offer is, local authorities should take into account the particular circumstances of the applicant. This may include, for example, the need to consider:

- sources of domestic abuse or external violence;
- the applicant's physical/learning disabilities or mental health problems;
- the family as a whole, making sure that you don't split up a family;
- the need to be near friends or relatives and other formal or informal support networks; and
- the location of applicants' employment, education or training establishments, or health services.

Scottish Government guidance on ['Meeting the Best Interests of Children Facing Homelessness'](#) will help local authorities co-ordinate and carry out their duties under Part II of the 1987 Act in relation to children facing homelessness or threatened with homelessness. This will make sure that landlords meet the best interests of such children fully and equitably across the country.

The [Code of Guidance on Homelessness](#) contains more detail on offers to homeless applicants, in summary it recommends that on the number of offers of housing

homeless people receive you should treat them on the same basis as other housing applicants. You should not concentrate offers to homeless people in particular areas and property. In general, the profile of offers/lets to homeless people should mirror those of offers/lets to other types of applicants. The Code of Guidance identifies the placement of homeless people in hard to let housing as poor practice. Offers of housing and actual lettings are one of the key, and most obvious, outcomes for users of homeless services.

(ii) RSLs and homelessness

RSLs are obliged to meet local authority requests to house homeless people under section 5 of the 2001 Act (see also [section 4.3 \(b\)](#)). But, this is not the only 'route to housing' available to homeless people. Councils can nominate homeless people or they may apply to the RSL directly.

When a person who appears to be homeless or threatened with homelessness applies directly to a RSL, staff should, as part of discussions on their housing options, advise them to present to their local authority to apply for homeless assistance. But at the same time the RSL should go ahead with the direct application in the normal way. In some cases the RSL may be able to house the applicant through the direct list in time to prevent a worsening of the homelessness situation.

RSLs can make broad interpretations of homelessness to address the needs of people in insecure tenancies or who may be threatened by homelessness. This could include, for instance, where housing benefit fails to meet rent payments in private housing and the rent is unaffordable. It is up to RSLs to decide how it will point and prioritise different types of homelessness. Under most points systems homeless applicants will attract points not just for homelessness, but also factors such as sharing or lacking amenities, or overcrowding.

RSLs have to monitor the number of applicants who have been homeless or threatened with homeless they house following section 5 referrals, nominations and direct applications. The Scottish Housing Regulator collects this information as part of the Annual Performance and Statistical Return and it will allow you to measure and evidence your contribution to preventing and alleviating homelessness in your area.

The relative priority between people who are homeless or at risk of homelessness and others will depend on your allocation policy. The makes it clear that 'at the very least, homeless people should not, as a rule, be given lesser preference than the other specified groups'. Whether you allocate any particular property to someone who is homeless or to someone from one of the other reasonable preference groups, or someone who meets your local priorities criteria will depend on a range of factors (see [section 5.9](#)).

(b) People who are occupying houses which do not meet the tolerable standard

This standard is set out in [section 1.2](#). Housing conditions in Scotland have moved on considerably in the last two decades, and there are considerably fewer homes

which do not fully meet this standard. Most landlords give priority to applicants whose homes fail to meet some part of the standard, for example houses that have serious dampness, poor ventilation or no hot water. Landlords often give points for each of the elements of the standard the applicant's current property fails.

(c) People who are overcrowded

The legal definition for overcrowding is set out in [section 1.2](#). This overcrowding standard includes living rooms and bedrooms as being suitable rooms for sleeping. Legislation does not prevent you from giving priority to other households if that is what you want to do after a review of demand and need in your area. Other households could, for example, include those who don't meet an occupancy standard for your stock which goes beyond the legal definition or applicants who need to share facilities with another household. You must, as a minimum, give reasonable preference to those who meet the legal definition for overcrowding.

(d) People who have large families

As set out in [section 1.2](#), the law does not define people who have large families and you can decide what forms a large family taking into account your local context. You can choose to include large households in recognition of extended family relationships that make up many households. What forms 'reasonable preference' for you will take into account your housing stock. The re-housing of large families will not be a practical proposition for an RSL which has a stock comprising mostly one bedroom flats.

(e) People living under unsatisfactory housing conditions

Again, the law does not define this (see [section 1.2](#)) and it is therefore an exceptionally broad category that allows you to give priority to people living in a range of difficult situations and as a result have a significant level of housing need. [Section 5.2](#) discusses this in greater detail.

5.2 Allocating houses: Assessing housing need factors

You need to give a degree of priority in allocations to all of the groups above, but you can decide what factors you take into account in defining unsatisfactory housing conditions. You have great flexibility to interpret what forms 'living under unsatisfactory housing conditions' which allows you to respond to your own context. You need to make clear, within your allocation policy, how you define 'living under satisfactory housing conditions' and you need to have clear grounds for choosing your definitions. Factors that are usually taken into account generally fall into three main categories:

(a) Health and disability

Many applicants want you to re-house them because they have a health condition or a disability which makes their current home unsuitable. You need to consider what processes you will put in place to assess their need and decide what priority you give

them. This should be in the context of the outcomes you wish to achieve through your allocation policy more generally.

Applicants who would benefit from priority on health or disability grounds are those with a health need or disability for whom, assuming you also provide any suitable support the applicant needs, re-housing would improve or stabilise their condition or would allow them to function independently. By independent living we mean all disabled people having the same choice, control and freedom as any citizen - at home, at work and as members of the community. This does not necessarily mean disabled people 'doing everything for themselves' but it does mean that any practical assistance people need should be based on their own choices and aspirations. Health need here includes applicants with mental health problems.

There are key issues to note in this definition, it:

- stresses that the applicants current home is making their health or disability worse and re-housing would make a difference;
- recognises that it would be unrealistic to expect other housing to remove the health or disability problem;
- covers both those with functional difficulties, such as respiratory problems, physical disabilities and those with mental health problems; and
- covers those who would be able to function more independently if they were re-housed. This could include people who would benefit from being nearer to, and being able to access more easily, shopping facilities or transport links.

Information Point

A severe health or disability issue should not, on its own, bring priority for re-housing. You should base decisions on priority on both the severity of the health need or disability and the extent to which re-housing will benefit the person concerned, in terms of both their quality of life and ability to live independently.

You may wish to consider not giving priority in certain circumstances. This may be the case most commonly where you expect the health need or disability to be short term, for example after a car accident, or where you can adapt the property itself and make it suitable for the applicant's continued occupation.

Information Point

If an applicant and/or the people who he or she is wanting to be re-housed with fall into more than one of the legal needs factors, for example if they are overcrowded and the house is also below the tolerable standard, you will need to consider how you should take this into account (1) . And if more than one member of the household has a disability or a health condition which makes the current house unsuitable, you need to consider how you should reflect this in the priority you give that application. In cases such as these, you need to consider whether to carry out a cumulative needs assessment so that there is an appropriate basis for any differentiation between applicants in need.

(1) A recent judgement in the House of Lords (R (on application of Ahmad) v. Newham LBC ("Ahmad") [2009] UKHL 14) indicates that there is no legal requirement in England to assess need cumulatively.

(i) Applying for priority on health or disability grounds

You need to think about how you are going to collect the information you need from the applicant about their condition. Many landlords ask applicants to fill in a self-assessment questionnaire. You need to design such a questionnaire to elicit the necessary information about the applicant's health or disability without it being unnecessarily detailed.

You need to write questionnaires or application forms in plain English and make sure they are well presented, leaving ample space for applicants to respond to questions. You should consider providing help to those who experience problems with form filling. The form should be as concise as possible while gathering all the necessary information to help the applicant.

Information to collect could include:

- characteristics of the house (for example the number of steps and how it has been adapted);
- medicines taken;
- social problems which impact on health;
- disability benefits (such applicants have already been assessed by others);
- earlier applications; and
- other information the applicant considers relevant (for example other family circumstances).

You should offer applicants a positive and supportive options discussion to make sure they are fully aware of all the options available to them and the implications of different choices. You should give thought to where you hold the discussion and who does it, giving consideration to the applicant's race, sex, age, religion, and access needs including any communication support needs. This discussion could be used to:

- give help with form filling or to check that all the necessary information has been provided;
- make sure that applicants are aware that other options more appropriate than priority on health or disability grounds may exist to resolve their housing problem (for example the provision of equipment or adaptations, resolving physical problems with the existing house such as condensation, resolving housing management problems such as neighbour disputes or support being provided by a home carer or a homemaker);
- talk about the house types that might be needed, their location, and their availability so that applicants can tell you their preferences; and
- verify the level and nature of applicants' problems.

One choice is making the existing house work better by providing equipment or making physical changes to properties that will allow the tenant to stay in their own

home. The Scottish Government issued [guidance on the provision of Equipment and Adaptations](#) on 1 December 2009. The guidance aims to help local authorities, and their NHS partners, to modernise and integrate their equipment and adaptations services within the wider community care context.

To accompany the main guidance mentioned above the Scottish Government has also developed a number of practical guides. These include:

- [A Good Practice Guide for the Provision of Community Equipment](#). We developed this guide to support local equipment services effectively develop, deliver, manage and monitor the provision of equipment and minor adaptations from the point of assessment through to delivery. Organisations can use it as a quick 'checklist' against which they can benchmark and evaluate their equipment service, irrespective of the type of model they have adopted. It will identify common and key components that should apply to all equipment services and assist in a systematic approach to service development and delivery across all areas of Scotland.
- [Self Evaluation Toolkit](#). We developed this toolkit in line with the evaluation model the Social Work Inspection Agency (SWIA) uses in their Performance Improvement Model. You can apply the tool to the Key Themes developed in each section of the Good Practice Guide, and used universally by any agencies or services involved in the provision of equipment.
- [Funding Guide for Major Adaptations](#). We aim this guide at practitioners. It details the different funding streams and housing tenures that adaptations providers encounter. We will also soon publish separate, tenure specific, leaflets for service users.
- **Adaptations Good Practice Guide**. Following an initial scoping exercise work is now ongoing to develop good practice guidelines for major adaptations. This guide aims to simplify the processes for accessing and providing major adaptations. Once published this guide will be available at the following address:
<http://www.scotland.gov.uk/Topics/Health/care/EandA/UsefulPublications>

Keeping good records of properties that have been adapted will allow you to match applicants with needs to suitable and available housing more quickly in the future. There are also cost benefits of using adapted housing efficiently and avoiding the need to remove adaptations unnecessarily.

(ii) Assessing health or disability needs

There is a range of ways by which you can assess and prioritise applicants' health or disability needs. An effective assessment procedure should have the following features:

- good communications between housing staff and any independent advisers;
- close links with social workers, occupational therapists and other relevant professionals;
- medical advice sought only when necessary;
- recommendations which are based on a comprehensive view of the applicant, which are fair and consistent and arrived at without undue delay;

- accountability for decision making; and
- involvement of the applicant. You should always treat the applicant with respect and dignity during the process of assessing their housing needs.

The National Health Service (Scotland) Act 1978 allows Health Boards to give local authorities the services of their staff. SHHD Circular NHS 1982 (GEN) 2 provides guidance on the use of this power. On the housing function of local authorities, the 1982 Circular says that Health Boards should advise on policy issues and "provide a service of medical assessment for applicants referred to them by housing authorities" although this should only rarely involve clinical examinations.

Many landlords use housing management staff to make assessments. Housing staff are not medically qualified but the information contained in the self-assessment form and a home visit where possible should be enough for them to decide the severity of the case and whether re-housing would help. It would be good practice, as a minimum, for housing officers making such decisions to have had disability awareness training. You can pass the more complex cases to an independent adviser, an occupational therapist or a medical practitioner as appropriate. In order to achieve consistency of assessments it makes sense to use just one such adviser.

The key principle is that the process of awarding priority on health or disability grounds is transparent and consistent and avoids the applicant having to go through repeated assessment processes wherever possible.

(iii) How do you award priority?

Those who would benefit most from re-housing should receive the greatest priority. In identifying them you should consider two factors:

- the severity of the person's condition or the degree of incapacity; and
- the extent to which re-housing will benefit the person concerned.

Most landlords adopt a banding system to rank applications, usually high, medium, and low. You should keep the grading system simple with the highest category a 'fast track' to re-housing that allows you to respond speedily where circumstances demand it. Independent advisers should categorise their recommendations about types or location of house as 'essential' or 'advised' so that allocations staff are able to maximise the number of options open to them.

Once you have awarded an applicant some level of priority on health or disability grounds, they come into direct competition with other applicants. Their chances of you re-housing them depend both on the availability of suitable houses and the number of people waiting re-housing and their levels of priority. The chances of health or disability priority applicants also depend on the structure of the allocation system and how it determines relative priorities.

(iv) Monitoring trends

The core information that needs to be monitored around health needs and disabilities includes the:

- number and characteristics of applicants seeking priority;
- the outcomes of their assessment by levels of priority;
- the number of applicants with priority by levels of priority; and
- the number of applicants housed by levels of priority.

There is no legal requirement to monitor the sex, ethnicity and disability of applicants, but it might be helpful to do this.

(v) Information and advice

Priority on health or disability grounds is an area where it is extremely important that you manage applicants' expectations. You need to make sure that you convey the message, to applicants as well as health and care professionals, that it is not having a particular health condition or disability that will give them priority for a house but whether a new house will improve the condition or make it easier to live with. So one of your main tasks is to make sure that applicants understand what priority on health and disability grounds is and how you will assess it. You could choose to give this information on your standard guide for applicants on your allocation policy or in a separate leaflet.

A typical leaflet, written in plain English and available in other languages and formats, should describe:

- the role of priority on health and disability grounds;
- other ways of meeting housing and health or disability needs;
- the assessment procedure and timescales;
- general information about housing in the local area and its availability;
- decision making procedures;
- appeals procedures; and
- how to fill in the application form, section by section.

Once you have awarded priority you need to let the applicant know the outcome. You need to explain clearly what this means in terms of likely timescales for re-housing and what type of housing you will consider them for. Given the fact that you are giving priority so that you can re-house the applicant in a house that will improve their condition, or make it more manageable, it makes sense to restrict the applicant's priority to houses with the right attributes or amenities. If the applicant still wants you to consider them for housing that won't help their condition, then the priority is disregarded for those properties.

(b) Harassment and abuse issues

Harassment and abuse can take many forms, it can be verbal or physical and at its most acute - life threatening. You need to develop an approach to deal sensitively with victims of abuse and to award them with priority to make sure that they can be re-housed quickly to remove themselves from the abuse. This can include dealing with harassment and abuse issues under the homeless legislation, which gives those who are homeless or at risk of homelessness reasonable preference in housing allocations.

You need to have a policy which applies to all types of abuse and harassment which recognises that people have a right to live a life free from such treatment. You may also want to develop policies and procedures on particular forms and procedures to address different types of harassment which recognises different causes and remedies. Types of abuse and harassment you may want to consider are:

- domestic abuse;
- racial harassment;
- religious or sectarian harassment;
- homophobic harassment;
- transphobic harassment; and
- harassment of disabled people, including those with a learning disability.

Anti-social behaviour refers to a wide range of actions and behaviours. It can also be a form of abuse or harassment. Schedule 2 of the 2001 Act defines anti-social behaviour (in relation to grounds for eviction) as an action or course of conduct which causes or is likely to cause alarm, distress, nuisance or annoyance. The focus is on the alarm or distress that is caused to another individual.

Your allocation policy should clearly set out how you will deal with applicants who are victims of abuse and harassment and say what degree of priority you will give to different levels.

You need to make sure, where possible, that all staff who come into contact with applicants and tenants recognise and know how to respond appropriately to cases of abuse and harassment. Where possible you might also want to consider designating a specific member of staff who is trained, understands the issues around abuse and harassment and can act as a referral point for colleagues dealing with applicants who are suffering from abuse or harassment.

There are key things you need to remember when dealing with applicants who are suffering from harassment or abuse:

- **Safety:** the safety of the applicant should be paramount. The applicant should be signposted to agencies that can assist in providing them with a place of safety where necessary; and
- **Confidentiality:** this is crucial to make sure the safety of the applicant. You should never contact the alleged perpetrator nor ask them to corroborate the applicant's version of events.

You might find it useful to look at the following sources:

- [Challenge Racism- a toolkit for Scottish Housing providers](#);
- ['Dealing with domestic abuse'](#), a guidance booklet developed jointly by the Scottish Federation of Housing Associations and Scottish Women's Aid;
- [Scottish Women's Aid](#) for resources on domestic abuse;
- ['Recognising and Addressing Homophobic and Transphobic Harassment: A Guide for Social Housing Providers and Homelessness Services](#).

(c) Social, community or family support

It is up to you to adopt your own definition of social, community or family support, if you choose to reflect it as a need factor in your allocations policy. At its most acute level it can be regarded a reasonable preference factor under 'living in unsatisfactory housing conditions'. People can have a variety of reasons for wanting to be near family or friends: to give or receive support; or to live in a particular community for cultural/religious needs (such as being close to a Mosque). For some applicants, for instance a young person in their first tenancy or an older person with health problems, being close to support will make a positive contribution to helping them sustain a tenancy. See also [section 1.3 \(a\)](#) on residency.

If you decide to make giving/receiving support a housing need factor in your allocation policy, you should clearly set out the factors that you will take into consideration in awarding priority in this category. Equally it is up to you to decide what sort of evidence or validation you will seek on someone's need to give and/or receive support.

5.3 Housing for people leaving the armed forces

Ex-service personnel and their families can face particular housing challenges as they leave the Armed Forces. Having lived in MOD housing in a variety of locations during their career they often don't have roots in a particular area. They may be leaving because of illness or disability and they are facing a drop in income. The Scottish Government is committed to ex-service people and encourages you to consider their needs and respond appropriately. This section replaces Housing and Regeneration Circular HAR1/2009.

You should give applications from ex-service personnel fair and sympathetic consideration. **You should give ex-service personnel the same priority for housing as those with a similar level of housing need.** You shouldn't impose residential qualifications which put service personnel and/or former spouses/civil partners who have to vacate military-provided housing at a disadvantage compared with other applicants. Where reasonably possible, you should seek to anticipate the needs of ex-service applicants in order to minimise the number of them who are re-housed through the homeless route. Those personnel returning after several years' absence to an area in which they lived before joining the Forces have a special claim to no less sympathetic consideration than any other application.

The Scottish Government has, in the Housing (Scotland) Act 2010, removed the exemptions around local connection for homelessness so that employment and residence through the Armed Forces is equal to that of civilians for creating a local connection¹. Where you use local connection as part of an allocation policy, you will want to make sure it does not disadvantage ex-service personnel. This makes sure that ex-service personnel are not at a disadvantage when applying for social housing due to service time spent out with an area.

¹ Note - this comes into force 1 April 2011

(a) Applications before discharge

You have to accept all applications when applicants make them. You should not refuse to consider an application simply because an applicant is living in suitable housing at the date of application or living outwith the area where you receive the application.

The Ministry of Defence (MoD) recognises that local authorities and RSLs will need to confirm that a right to occupy service housing will end on a certain date in order to decide whether applicants approaching their date of discharge may be homeless or threatened with homelessness. For this purpose, the MoD usually issues a Certificate of Cessation of Entitlement to Occupy Service Living Accommodation 6 months before discharge.

This certificate shows the date on which right to occupy service accommodation ends and you should not insist upon a court order for possession to establish that a right to occupy has ended. Local authorities should take advantage of the six-month period of notice of discharge to make sure that service personnel receive timely and comprehensive advice on the housing options available to them when they leave the Armed Forces. This approach is consistent with guidance issued to local authorities under section 11 of the Homelessness etc. (Scotland) Act 2003. It is also consistent with their duty under section 2 of the Housing (Scotland) Act 2001 to make sure that advice and information about the prevention of homelessness is available free of charge.

RSLs should alert the local authority, with the applicant's agreement, when they get housing applications from service personnel if it is not practicable for them to allocate housing soon. Alerting the local authority should increase the opportunities for preventing homelessness. Shared involvement in a Common Housing Register may improve communication between RSLs and local authorities.

(b) Applications from seriously injured ex-Service personnel and other individual cases

In some cases service personnel may leave the Forces because of injury or disability and need access to adapted social housing. Those leaving under medical discharge may normally stay in service families' housing for 3 months after discharge. You should be ready to give special consideration to housing applications in these circumstances (see [section 5.6](#) on individual cases).

The Scottish Government expects that you will assess seriously injured ex-service personnel as having a significant level of housing need. They will then receive a high level of priority in the allocation of adapted social housing.

You should assess applications from seriously injured personnel as quickly as possible to minimise delays in allocating and arranging suitable adapted accommodation. It would also be helpful for you to work with other service providers, including veterans' services, to make sure that you consider all aspects of the applicant's needs. It will also help make sure that you provide suitable support. This co-operation will be particularly important where limited adapted accommodation is available.

You should also give special consideration to applications from those who leave the Forces because of other exceptional circumstances. This could include applications from individuals whose spouse/civil partner is killed in action or dies before the date of discharge. The MoD gives sympathetic treatment to them by allowing widows/widowers/civil partners of former Service personnel to stay in service housing as a right for a 2 year period after the death of the spouse/civil partner to allow them to decide their longer term housing needs. Service units and welfare agencies may extend the period beyond 2 years as long as there is no pressing service requirement for the property. But, families may wish to move on to permanent housing before this and a right to stay in service accommodation for a period of time should not disadvantage them in seeking re-housing in the social sector.

(c) Applications from ex-Service personnel under the homelessness legislation

You should in all cases make sure that you carry out the legal responsibilities placed on you by Part II of the Housing (Scotland) Act 1987 (as amended by the Housing (Scotland) Act 2001 and the Homelessness etc. (Scotland) Act 2003). In particular, you should bear in mind that section 28 of the 1987 Act requires you to take action to deal with an application whenever you have reason to believe that a person who has asked for help to get housing is homeless or threatened with homelessness. This duty exists regardless of the precise nature of the approach made by the individual to the local authority and the particular department approached. By intervening at the earliest opportunity there should be improved scope to talk about a range of potential housing options, including for example private renting and home ownership. But, even if options are limited because of particular household circumstances, early discussion with housing advice services is likely to prove helpful to households. It may help avert housing crisis. Local authorities should make sure that information on housing options and advice services, including how to access them, is made widely available and in a range of formats.

Some of the changes to the 1987 Act made by more recent legislation are particularly relevant to ex-service personnel. Section 1 of the Homelessness etc. (Scotland) Act 2003 expands the categories of people with priority need to include, among others, anyone who is vulnerable as a result of leaving the Armed Forces.

There may be other factors which suggest that an ex-service person is in priority need. You should give careful consideration to assessing the potential vulnerability of any applicant with a service background, as veterans or formerly active service personnel may suffer from post-traumatic stress disorders. These are not always clear at the date of discharge. This may be particularly relevant in cases of former service personnel experiencing problems in sustaining housing at a later stage. Other groups which the law gives priority need status include those with dependent children and those who are vulnerable as a result of old age.

Section 3 of the Housing (Scotland) Act 2001 amends the 1987 Act so that people you assess as having priority need for any of the given reasons, and as being unintentionally homeless are entitled to settled housing. Such people can include ex-service personnel. People who you don't assess as being in priority need are entitled to temporary accommodation and access to help and advice.

The requirements of Part II of the Housing (Scotland) Act 1987 (as amended) apply to ex-service personnel in the same way as to other applicants. You should consider applications under the Act from ex-Service personnel in the normal way and in line with the Homelessness Code of Guidance.

Local authorities with large Services establishments in their areas should work with them at a strategic level. By addressing issues at an early stage you can avoid potential problems with housing for ex-service personnel. Local authorities should include specific measures to prevent homelessness for ex-service personnel in their Local Housing Strategy. You should also include them in planning arrangements for future social housing building programmes. Opportunities to use vacant MOD property as temporary accommodation for ex-Service personnel may also arise. Further information on this is available from the MOD's Defence Estates - Housing Management Project (HEMP) team. They can be contacted by calling 01748 875094. Such an opportunity could assist in reducing demand on the overall supply of local temporary accommodation. But, you should not disadvantage ex-service personnel that you assess as unintentionally homeless and in priority need who are seeking settled or even other temporary accommodation.

Sometimes service partners stay in service housing after their marriages/civil partnerships have broken up and their partners have been posted abroad. You should be ready to treat sympathetically the re-housing needs of such homeless applicants even where no local connection exists. Responsibility should not simply lie with the local authority whose area includes the service house.

(d) Registered Social Landlord measures

Section 5 of the Housing (Scotland) Act 2001 allows local authorities to make referrals to RSLs. Local authorities should consider this mechanism and use it to help find housing with RSLs for ex-service personnel who are homeless. Arrangements agreed within local authorities and RSLs should be in place to make this possible.

Local authorities should work with all housing providers in their areas to maximise and simplify access to housing. To do this all local providers should consider the full range of options to maximise access including:

- Common Housing Registers;
- Common allocation policies;
- Section 5 protocols;
- Good housing options; and
- Nomination agreements.

When developing and using any of the above approaches, local partners should always consider the needs of ex-Service personnel.

Where MoD has properties which they no longer need, they may give RSLs the opportunity to buy or lease them at a reduced price and in return make some available for sale/lease to families which the MoD nominates. These purchases will depend on the availability of funding and to the MoD and relevant housing associations reaching agreement. These measures should help to relieve some of the pressure on RSLs to house ex-service personnel (1).

Key points for you to consider are:

- developing communications between yourselves, the Ministry of Defence and veterans organisations to identify barriers and develop solutions for service leavers at a local level. This may not be as relevant for smaller landlords;
- making sure that good housing options advice is available at a local level. This will help ex-service personnel find suitable housing whatever their circumstances. To help in this process the Scottish Government has published [a national housing options leaflet](#) for people leaving the armed forces and ex service personnel;
- making sure that front line staff receive awareness training on the issues facing ex-service personnel;
- developing good information exchange with the armed forces, in particular about vulnerable leavers, to make sure that housing staff can make informed allocations decisions and access suitable support to sustain their tenancies; and
- the importance of planning and early intervention to prevent a housing crisis developing. The MOD issues a Certificate of Cessation of Entitlement to occupy Service Living Accommodation 6 months before discharge and you should take advantage of this notice period to make sure that service personnel receive comprehensive housing options advice to help them plan for their future housing need.

(1) MOD's Defence Estates - Land Management Services have responsibility for MOD properties that are no longer needed and can be contacted on 01480 52151 extension 6047.

5.4 Allocating houses: Local factors

Although legislation says that you have to give reasonable preference in allocating your houses, this does not mean that you cannot take other factors into account. **You can choose to give priority or award extra points for criteria which are not related to the reasonable preference groups.** However you have to make sure that the priority or level of points is not so high that it dominates your lettings outcomes. In basic terms weighting given to any of the local factors should not outweigh the legal need factors.

(a) Waiting time/time in need

You can choose to give points for the time applicants spend on the housing list before being housed if:

- they are allocated in the same way to **all** applicants at the **same level**. So it is not lawful to only give these points to transfer applicants or only to people who live in your area, or to give a different level of points to different groups of applicants; and
- the level of points awarded for time on the list does not outweigh points given for housing need factors and therefore has a disproportionate impact on lettings outcomes. For example, it would not be acceptable for you to have a points system which awarded 10 points for being homeless or having a serious health problem, and 10 points for each year on the list. This could result in you placing applicants with little or no housing need at the top of housing lists.

But, where two applicants have the same level of need, you can use time on the list as a 'decider' between the two.

(b) Local connection

As set out in [section 1.3 \(a\)](#), you can choose to give priority on the basis of local connection, for example to help sustain social, family or support networks in fragile communities, or to provide a means of responding to the housing needs of adult offspring living in the parental home. The Scottish Housing Regulator expects you to be clear about your reasons for using local connection as a local need factor. You may not, however, give extra priority for the length of time someone has lived in the area.

(c) Local lettings initiatives

Some social landlords successfully use local lettings initiatives in certain geographically defined areas, making changes to their main policy to meet specific local aims. When you decide to use a local lettings initiative the Scottish Housing Regulator expects you to clearly state the outcomes you want to achieve and make

sure that your local lettings initiative delivers those outcomes. Local lettings initiatives have been used in Scotland to address many issues, for example:

- low demand - in order to stimulate demand;
- high demand - to prioritise access for particular types of applicant, for example in rural communities where local people have problems accessing housing;
- increasing incidence of anti-social behaviour - in order to try to reverse the trend;
- areas with a high proportion of unemployed tenants; or
- a lack of essential workers or where skills that are in short supply.

Legislation does allow you to use local lettings initiatives, essentially separate allocations policies for different parts of their stock, but with some qualifications:

- the local letting initiative must run within all the relevant legislation governing the allocation of houses. So for instance local lettings initiatives cannot take into account the factors set out in [section 1.3](#), as factors that must not be taken into account in allocating housing e.g. length of residence, an applicant's age or income; and
- you must allow for local lettings initiatives in your allocation policy and make public the rules they are using to allocate your houses in these areas so that applicants can understand the process.

Each local lettings initiative is unique but there are some key components:

- you are clear about why it is necessary to set up a local lettings initiative and can show that any decision is based on evidence and data analysis;
- the initiative has clear aims;
- you have talked to tenants about, and they have agreed to, the initiative;
- you have talked with its strategic partners, it makes sense for all social landlords operating within the same housing area to understand each other's initiatives and they are developed in a planned and coordinated way;
- there is an effective monitoring framework in place to make sure the aims of the local lettings initiative are being met and there are no unforeseen consequences; and
- you regularly reviews initiatives, both on an operational and strategic basis and makes a decision on whether to continue. Local lettings initiatives which go on too long are unlikely to be meeting their original aims.

(d) Under-occupation

The performance standards set out the expectation that when letting houses you 'make best of housing stock'. Maximising the use of stock may mean prioritising some allocations that don't meet housing need to free up houses that will allow you to meet urgent needs. Giving a level of priority to existing tenants who are under-occupying their home is one example of this. Many landlords have far fewer large family houses than they need, and often older people whose families have moved out occupy these.

In general the mismatch between household sizes is an increasing issue and landlords need to consider ways of ensuring a better fit - about 4% of social housing in Scotland is overcrowded, yet 22% of homes in the sector have at least 2 more bedrooms than occupants [\[1\]](#).

Landlords throughout Scotland are seeking to tackle this issue by using a variety of incentives to encourage tenants to downsize. One choice, depending on the make-up of your stock and the balance between the availability of and the need for larger houses, is to give priority to tenants who are under-occupying and want to move to a smaller house. As well as providing information on the benefits of downsizing, such as lower fuel bills, you could incentivise tenants by:

- giving extra points/priority for each room under-occupied;
- paying financial incentives to the tenant; or
- providing help with removal costs for things like white goods and carpeting.

[\[1\]'Housing: Fresh Thinking, New Ideas', Scottish Government, 2010, p.36.](#)

(e) Letting low demand properties

Low demand stock is characterised by high levels of empty houses, small or non-existent housing lists, high refusal rates and low levels of tenancy sustainment. Landlords use a variety of initiatives to stimulate demand for and improve lettings outcomes in low demand properties. These generally involve a change in approach - from rationing a scarce resource to marketing a product.

Before making a decision to adopt a new approach to allocating houses in a different way you have to carefully analyse the issue and be able to show that there is, in reality, no demand for that stock from the applicants on your housing lists or registers. And once you have carried out your strategy you need to monitor and review the approach as necessary.

Approaches you might consider are:

(a) Marketing

- Advertising of properties in the press, in newsletters, on the internet and at your offices;
- Adopting an estate agency approach - promoting the advantages of the area (transport, amenities) and the property (low rent, no deposit, security of tenure);
- Show flats and open days for prospective tenants; and
- Initiatives to expand the customer base - such as briefing employers seeking to bring staff into the area and contacting universities and colleges during freshers' week.

(b) Offering incentives

- decoration allowances;
- rent free periods; and

- white goods.

Even though you are marketing properties, if there is more than one interested applicant, you should still make the allocation to the applicant who has most priority and who makes the best use of stock.

You might find it useful to look at the [CIH report: Low Demand Housing in Scotland](#), which explores the reasons for and solutions to low demand housing issues and the report '[Managing Housing Voids: the impact of low demand properties](#)' jointly published by Communities Scotland and Audit Scotland.

5.5 Allocating houses: Factors to ignore

As set out in [section 1.3](#), the 1987 Act (as amended by the 2001 Act) sets out certain factors that you cannot take into account in the allocation of housing. We don't repeat these again here, but you should make sure that your allocations policy complies with the law.

There are some issues of practice on the factors to ignore that are worth considering in more detail.

(a) Age

Some social landlords seek to take age into consideration when they are allocating particular general house types or blocks in an effort to prevent neighbour problems or antisocial behaviour or other housing management problems. For example, many social landlords set aside one or two bedroom ground / first floor flats and cottages as 'amenity' and let them only to people over a certain age (very often 50). While you may seek to allocate specific housing to applicants with mobility problems, this must not be age specific (unless the exceptions set out in [section 1.3 \(c\) age](#)).

While it is important for you to match property to an applicant and take into account the potential impact on existing tenants, this can be achieved by sensitive lets rather than by a blanket approach based on age. Housing a young person amongst a predominately older people population may sometimes lead to housing management problems, but this is not always the case. Where there is a history of housing management problems you should take care to make sure the most suitable housing for the individual tenant and the community. But essentially, you should allocate your houses on the basis of an applicant's needs and circumstances, not their age.

The Equality Act 2010 includes age as a protected characteristic, but the provisions relating to the disposal and management of premises are excluded from the scope of the ban on age discrimination in the Act so you can still take age into account in allocating social housing when the law allows you to (see [section 1.3 \(c\) under age](#)). The law does not prevent you from taking into account the age of an applicant's family.

Legislation does not prevent you from taking into account the composition of the household in allocating a particular property. So, it may be acceptable for you to decide that they would not house families with young children in multi-storey flats

because of the lack of play space. But, you would have to balance this against the make-up of your stock and the demand from young families. For example if a high proportion of family sized homes were multi storeys it would not be right to impose this restriction.

(b) Income

As set out in [section 1.3 \(d\) under income](#), the 1987 Act (as amended) prevents you from taking the income of the applicant or their household into account when allocating social housing. Some landlords have taken the fact of employment into account as a means of balancing their communities, however there is a strong link between fact of employment and fact of income and you must ensure that nothing you do would fall foul of the provisions in s20(2) of the 1987 Act (as amended).

(c) Property ownership

Some social landlords have made it a condition of allocating a tenancy that an applicant sells their house before, or in a set period after, taking up the tenancy. Under the terms of the Scottish Secure Tenancy agreement, tenants must use the property as their only or main home, and you can terminate a tenancy if the tenant does not comply with it. Section 20(2)(a)(viii) prevents a local authority taking into account in allocation whether the applicant or their family own a house. Such conditions would be likely to breach existing legislation.

5.6 Individual cases

You will always have applicants whose circumstances are exceptional and don't 'fit' into the usual points system and who you need to house urgently. This could include offenders managed under the Multi Agency Public Protection Arrangements. You can manage such applications outwith the usual allocations system. But:

- these applicants should have exceptional level of need, greater than others on the list or the circumstances are so unusual that the allocation policy cannot adequately assess and prioritise;
- their numbers must be minimal - representing only a tiny proportion of lets;
- there are good audit trails for your organisation's decisions in making these lets, written procedures as well as a control and monitoring framework; and
- they are not used simply to appease applicants who are dissatisfied with the level of priority they have been awarded - you should tell such applicants about the appeals and complaints procedure.

You need to carefully monitor individual cases. A growing number or a pattern of applicants with similar circumstances would suggest that your allocation policy and priorities does not adequately reflect applicants' needs and you should review it.

5.7 Suitable, sustainable and sensitive lettings

In allocating housing you need to balance a range of factors:

- the individual's housing need;
- the suitability of the house for that applicant; and
- the needs of the community.

While you should let in line with your allocation policy, you should always seek to make sure that the let is suitable and is likely to be sustainable. A suitable and sustainable let is one where there is a good probability of it providing a long term and stable solution for that applicant. Having information on the reasons why tenancies fail may help you make better allocation decisions in the future. The [Code of Guidance on Homelessness](#) states that "Examples of poor practice might include placing people in hard to let housing which may exacerbate the problems which led to homelessness in the first place; or placing families with social or other problems in the same area, which can cause problems for both those from the area itself and for housing management." It would be good practice for you to keep in mind these principles when letting to all applicants, not just to those who are homeless.

The majority of applicants, with support where needed, should be able to sustain a tenancy in the social rented sector particularly where you have considered the match between property, applicant and community. On rare occasions, however, you may assess an applicant as unable to sustain a tenancy. In such cases you should discuss other options, such as supported accommodation with the applicant. See also [section 6](#) on tenancy sustainment.

One useful tool to help match a property and applicant that you can use to try and make sure that it is a sustainable tenancy for the applicant and at the same time prevents some of the housing management issues that may result from an unsuitable match, is sensitive lettings. A sensitive let essentially means that you depart from your routine allocation practice. So instead of allocating a property to the applicant at the top of the list (the person with the most housing need, as defined by your allocation policy) you consider the suitability of the applicant for the vacancy, on the basis of the information you have about the applicant and the knowledge you have about the property, its location or neighbours.

So, the law allows you to make sensitive lets and in many cases they are essential. But you should keep in mind that you must make all lets, including sensitive lets in line with legislation. In particular you must take into account the factors set out in section 20 of the 1987 Act (as amended) and described in [section 1](#) and [Annex A](#) of this guidance.

There has been some concern amongst landlords about criticism by the Scottish Housing Regulator about how they use sensitive lets and this has made some landlords wary of using the flexibility they have. It is therefore useful to explore the basis for these concerns. Areas where landlords may potentially be criticised are essentially two fold.

Firstly, that you hold little documented evidence about how and why they use sensitive lets. It is essential then that you clearly set out your policy or procedures for using sensitive lettings. You should also have clear processes for staff to follow, including a documented assessment of a potentially sensitive let.

The second criticism about sensitive lets centres on the fact that you often do not monitor the impact of their use. You need to know what the impact of sensitive lettings is on those individual applicants who you are bypassing - in terms of the number of times they are bypassed, any significant extra waiting time for an offer, and in terms of the quality of any later offer. At the same time you need to closely monitor your use of sensitive lets to make sure that there is no pattern of bypassing particular groups, and that in practice sensitive letting does not amount to a policy of letting on the basis of the prohibited factors (age being the most obvious one).

The message then is that you can use discretion in lettings but in doing so you should develop a framework, which makes sure these decisions are accountable, transparent and their use carefully monitored.

5.8 Making the best use of housing stock

In making allocations decisions you will need to consider the match between the needs of the applicant and the suitability of the property. This should include considering whether the let to the applicant would be the best use of the housing stock. So, for example:

- consider whether the let would result in under-occupancy of the property. Where the let would result in under-occupancy it may still be appropriate because: it best meets the needs of the applicant; or your housing stock means that there is no housing available that wouldn't result in under-occupancy; or the let is in a low-demand area. Where there is choice, discussions with the applicant should include consideration of the increased rent they will pay and, where relevant, any Housing Benefit implications there may be;
- ground floor properties are particularly appreciated by some applicants and may be highly sought after. Such properties are most needed by tenants and applicants with mobility or accessibility issues. Allocations cannot be made on the basis of age (with the exceptions set out in [section 1.3 \(c\) age](#)) but are instead made on the basis of the applicant's needs. Where a ground floor property becomes available for re-let and it meets the needs of an applicant who is not at the top of your housing list it is possible to bypass other applicants on the list but you should always make sure that applicants with the greatest need overall are properly considered for the property. You must record the reasons for bypassing other applicants;
- properties may have been adapted to provide suitable accommodation for those with particular needs. Adaptations may be minor and moveable or major structural changes to properties, whatever the adjustment that has been made resources will have been dedicated to making sure that the properties were usable for those with particular needs. The best use of such properties then

would be for their continued use by tenants with similar needs wherever possible.

5.9 Who do you allocate the property to?

Your allocation policy will tell you who gets priority for your housing. But, when it comes to individual allocation decisions there is no single answer to who you should allocate each property to. It will depend on:

- Your allocation policy and who it gives priority to;
- The reasonable preference you have given across your stock over the year;
- The applicant and their circumstances;
- The property, its size and location and suitability; and
- The needs of the neighbouring community.

It is clear, however, that you need to record and retain the reasons for your decision. This information will mean that you are able to monitor the operation of your allocation policy and make sure that you are not systematically disadvantaging particular individuals or groups.

5.10 Monitoring

To help you assess and continuously improve your performance the Scottish Housing Regulator has provided you with a range of material, including a range of self assessment questions. You should consider the following questions on your allocation decisions:

- Do you consider the needs of the community when making allocation decisions?
- Do you consider the sustainability of individual tenancies and the stability of the community when making allocation decisions?
- Do your systems provide you with full information about applicants' needs and preferences, and property information to allow appropriate matching and the best use of your stock?
- Do you test your actual practices against legislative requirements and good practice?
- Do your operational practices reflect policies and procedures and are you consistent in applying these?

5.11 Practice Examples

Real experiences and approaches Scottish social landlords use when allocating in practice are set out in the practice log:

- [Simple access to small alterations, Glasgow Housing Association, in partnership with Glasgow City Council's Social Work Department \(March 2011\).](#)

- [**Joint working to match tenant needs to the right house**, Glasgow Centre for Inclusive Living \(GCIL \) \(March 2011\)](#)
- [**Assessing potential for adaptations**, EdIndex \(Edinburgh's common housing register\) \(March 2011\).](#)
- [**Working together to assess medical priority**, Melville Housing Association \(March 2011\).](#)
- [**Armed forces and priority for housing**, Dundee City Council \(March 2011\).](#)
- [**Local letting initiative, development within central Rutherglen**, South Lanarkshire Council \(March 2011\).](#)
- [**Local Lettings Initiative rural community**, Moray Council \(March 2011\).](#)
- [**Local lettings initiative rural community**, Orkney Housing Association - \(March 2011\).](#)
- [**Local Lettings Initiatives, employment**, Thenew Housing Association \(March 2011\).](#)
- [**Transfer Policy**, Fife Council \(March 2011\).Incentivising downsizing, East Lothian Council \(March 2011\).](#)
- [**Creating a stable community and tackling low demand and void properties**, Elderpark Housing Association \(March 2011\).](#)
- [**'Properties available now' list**, Dundee City Council \(March 2011\).](#)
- [**Sensitive lettings and allocations policy**, South Ayrshire Council \(March 2011\).](#)
- [**Housing advice and information to disabled people, their families and carers**, Disabled Persons Housing Service \(DPHS\) , \(March 2011\).](#)

6. Creating sustainable tenancies

Matching the applicant to the property is only the first part of achieving a successful let. This section focuses on what you can do to help new tenants set up and maintain their tenancies.

Transition from Applicant to Tenant

New tenants need to know from the beginning, in a clear and straightforward way, not just what their rights are, and what services they can expect from you, but what their responsibilities are as a tenant in terms of paying their rent and abiding by their tenancy conditions. And some applicants will need support to help them get settled in and maintain their tenancy - this needs to be identified and accessed at an early stage. How well you handle the transition from applicant to a tenant has an impact on the likelihood of that tenancy succeeding.

Key factors that you should consider are:

- setting up and maintaining effective relationship with new tenants, for example through accompanied viewings and sign-up or settling-in visits;
- providing new tenants with the information they want and need in a way they can absorb;
- giving tenants information on what they can expect from you - what service standards to expect, how to access services and what they can do if something goes wrong;
- making sure from the start that they understand their responsibility to pay rent and the implications of not doing so. You might consider helping them do this by:
 - helping with housing benefit applications in order to prevent a delay in the payment of housing benefit that can result in rent arrears building up; and
 - providing or signposting to money advice and welfare benefit checks.
- making sure that they understand what their obligations are - do they actually know what being a good neighbour means?
- assessing support needs and working with others to put support packages in place to address the specific needs of tenants;
- in addressing the needs of individuals, being aware of the range of support agencies and the services they can provide within your local area;
- considering the advice and support you provide to young people especially when setting up their first tenancy;
- making sure that those who need it are given basic equipment to help them set up their tenancy. So consider:
 - providing or accessing starter packs for new tenants; and

- referral schemes for furniture packages.
- the information you give, and the way you present it, should take account of the needs of the individual and should address equality and diversity issues.

6.1 Supporting tenants

You need to have in place support for tenants who need it. Under the 2001 Act, "housing support services" includes any service which provides support, assistance advice or counselling to an individual with particular needs with a view to enabling that individual to occupy, or continue to occupy, as the person's sole or main residence, residential accommodation other than excepted accommodation".

Housing support services are part of a continuum of services to individuals with particular needs for support and care. This ranges from housing management through to community care services and nursing care.

Following the transition from applicant to tenant, you will continue to support tenants throughout the duration of their tenancy. Tenancy sustainment and the prevention of homelessness are strongly interlinked. Early action to support tenancy sustainment is vital. The [Prevention of Homelessness Guidance](#) offers more advice on how you can achieve tenancy sustainment and prevent homelessness. RSLs may also find the SFHA's guidance on "Preventing and alleviating homelessness" helpful.

The main reason for the eviction of tenants in the social rented sector is rent arrears. We have put in place new measures in the Housing (Scotland) Act 2010 to strengthen protection for tenants in the social rented sector facing eviction for rent arrears. The main measure is pre action requirements, which sets out the steps you should follow before taking eviction action for rent arrears. The amendments aim to improve consistency of practice by landlords to ensure eviction for rent arrears is a last resort. Pre-action requirements will make more contact between you and your tenants a legal requirement in rent arrears eviction cases. We are currently developing the regulations around pre action requirements and will notify you when these measures are due to come into force. We will also publish statutory guidance to accompany the regulations.

6.2 Practice Examples

Real experiences and approaches Scottish social landlords use when creating sustainable tenancies are set out in the practice log:

- [Transition from Applicant to Tenant, North Lanarkshire Council \(March 2011\).](#)
- [New Beginnings service, Melville Housing Association \(March 2011\).](#)
- [Early visits with new tenants, Renfrewshire Council \(March 2011\).](#)
- [HOMEArgyll protocol for young people leaving care, HOMEArgyll \(the Common Housing Register for Argyll and Bute\) \(March 2011\).](#)
- [Decoration allowances, Fife Housing Association \(March 2011\).](#)

- [**Young tenant information pack**, Bridgewater Housing Association \(March 2011\).](#)
- [**'Welcome to your Home' pack**, Knowes Housing Association \(March 2011\).](#)
- [**New Tenant Gift Packs**, Wishaw and District Housing Association \(March 2011\).](#)
- [**My Homes: Easy to read guide to your tenancy agreement**, Glasgow Housing Association \(March 2011\).](#)

7. Openness and accountability

Monitoring and reporting on your performance is fundamental to good housing management and that is why we have referred to monitoring throughout this guide. This section focuses on making sure your allocations system is open and accountable.

When allocating your houses the underpinning principle should be that you do this in an open and fair way. You need to be able to show that decisions are made in a fair and consistent way, in line with your policy, and that where you exercise discretion, this is done in an accountable way. So what are the key elements of an open and accountable allocations system?

(a) Internal management systems

You should consider the following questions about your internal management systems:

- Do you have clear and comprehensive procedures to guide staff in making allocations decisions?
- Have you fully trained staff on what you want to achieve from the allocations policy, and do you keep this training up to date?
- Do you have a quality assurance system to check individual decisions? For example,
- does another member of staff countercheck decisions about pointing, cancelling and suspending applications?
- does a manager check and approve decisions about allocations?
- do you carry out a management audit of some decisions?
- Do you keep audit trails which clearly show how and why you let a house to a particular applicant and explain why you bypassed other applicants?

(b) An appeals process

An appeals process is essential for those who disagree with your decisions, for example where the applicant feels:

- the priority you have awarded does not reflect their needs;
- you have applied an unfair suspension or unreasonably cancelled their application; or
- you have offered them a house which they regard as unsuitable.

Concerns about the allocations policy should be dealt with through the complaints process.

You should make it clear to applicants that they can appeal against any decision you make about their application or about any offer of housing you make. You should tell applicants about your appeals process in your allocation policy and mention it in any communication you send them about their application. How your appeals process works is a matter for you to decide depending on your context. However you should

make sure that staff involved in the original decision are not involved in the appeal process.

The 2001 Act introduced a statutory right to review for all decisions made under the homelessness legislation including whether or not an offer is reasonable. The [Code of Guidance on Homelessness](#) also sets clear guidelines for appeals against homelessness decisions. You may want to consider using this framework for appeals against allocations decisions.

(c) A complaints process

A complaints process allows for those who are dissatisfied with the way the organisation has treated them. The Scottish Public Service Ombudsman (SPSO) handles complaints in the 'last resort' - after the complainant has already been through your formal complaints procedure. The SPSO reports that a high proportion of complaints it receives are from tenants and applicants of social landlords, and that the social housing sector produces the highest proportion of complaints that have not finished the service provider's complaints process. These two facts suggest that tenants and applicants may not know how to complain to their landlords, and if they do, they may not be satisfied with how you handle or resolve their complaint.

To improve things you need to:

- train your staff on to handle complaints;
- record complaints properly; and
- use the information to drive service improvement.

The SPSO and CIH have jointly published a briefing note for landlords '[Seeing Beyond the Negative](#)'. This gives useful information and good practice points in handling complaints. The SPSO has also published [guidance on a model complaints handling procedure](#) which provides support to public service providers in improving their complaints handling procedures. It sets out the high level components of an effective complaints handling procedure, focuses on simplifying and streamlining those procedures and on 'getting it right first time'.

In developing a complaints process you need to make sure that it is simple and accessible to tenants and applicants. You should consider:

- a range of ways to make a complaint;
- details of what to do if complainants are unhappy with the outcome; and
- clear service standards and timeframes so that complainants know what to expect.

Complaints give a good indicator of where you need to make improvements and where you can use them to improve service delivery. You should consider monitoring:

- the nature and number of complaints- is this changing?
- the outcome of complaints;

- customer satisfaction - not just about the outcome of the complaint but how it was handled;
- performance against service standards; and
- how you have changed ways of doing things in response to feedback.

You should consider publishing this information so that tenants and applicants know that you are taking their complaints seriously and that you are using them to improve the service you provide.

You can find good practice examples in the Communities Scotland openness and accountability thematic report [-open and accessible?](#)

(d) A feedback process

You should consider asking tenants and applicants their views on your allocations service. Getting a service user's point of view is a good way of making sure that your service meets their needs and expectations. Many landlords ask new tenants for feedback on their satisfaction on the allocations process - either by asking them to fill in a survey at the sign up process or during the settling in visit. Although this is useful, it is important to remember that these are the applicants who you have successfully housed. You may want to consider seeking feedback from applicants who you have not yet housed. There is a range of ways that you may want to consider - either on a continuous basis by asking them to fill in a survey when you review their application, a face to face survey when they call at the office or on a periodic basis by holding a focus group for applicants.

Gathering and monitoring qualitative information on service user satisfaction - feedback, complaints and appeals will supplement the quantitative data gathered as part of your performance monitoring system.

7.1 A performance monitoring system

Ongoing monitoring of outcomes is essential for you to be able to track the impact of your allocation policy and to allow you to monitor outcomes to understand what needs are being met and show reasonable preference to legal priority categories of need. A good performance monitoring system makes sure you know, and can show, that:

- the allocation outcomes match your policy intentions;
- the policies are addressing the needs and preferences of current and future applicants; and
- you are meeting equality duties.

It is important then that you are clear about the outcomes you want to achieve through your allocations policy from the outset and design your performance monitoring system to give you the information you need.

Good performance monitoring information can also give you 'early warning' of emerging problems within your stock, for example evidence of low demand. An increasing level of refusals for a particular area or house type can also help you develop your asset management strategy.

You may want to consider monitoring your lets by the following indicators, split on the basis of access route (that is whether a direct applicant, a transfer applicant, nomination or referral) as well as by gender, disability, ethnicity, age and household type as well as detailing the type of need the applicant has. This will help you understand what needs are being met and to show reasonable preference to the groups in [section 1](#). So, you may want to consider the:

- number of applications- where is demand coming from?
- number of applications suspended;
- number of applications cancelled;
- length of waiting time;
- nominations and referrals made and accepted;
- offers made/ type;
- refusals/reasons for refusals; and
- tenancy sustainment.

It is important that you not only collect equalities data but also use it in your policy development. Effective monitoring and use of equalities data is essential in helping you:

- identify whether there are any gaps/ barriers or disparities;
- understand whether your policy goals are being met; and
- make sure you are working towards equality of opportunity and outcome.

RSLs will be familiar with the Scottish Continuous Recording System (SCORE), funded by the Scottish Government and managed by the Centre for Housing Research. SCORE monitors new tenancies granted by RSLs in Scotland through lettings logs that landlords and tenants complete for each new tenancy. The lettings log records details about the tenancy, the tenant household and the property being let. The data gathered includes:

- the demographic characteristics of tenant households;
- the pathway by which a household has become a RSL tenant;
- the financial profile of tenant households;
- the type and condition of the property being let; and
- the financial aspects of the let being made, including rent and affordability.

Further information on SCORE and recent publications can be found at:

<http://www.scoreonline.org.uk/>.

7.2 Reporting performance

Effective performance reporting is arguably more important in allocations than in other parts of the housing service: social rented housing is a scarce resource and demand generally outstrips supply. Naturally, allocations decisions are then of great interest and significance and you need to be accountable.

You will be accountable to councillors or governing body members and will wish to report on progress towards the policy and targets they have set and the outcomes they want to achieve through your allocations policy. Information should be detailed enough to allow consideration of changes to your allocations policy, processes and procedures. Councillors and governing body members are also likely to want to know about how your allocations policies and processes meeting the performance standards and we have included the Regulator's self assessment throughout the relevant sections of this guide.

You will also be accountable to users of your services. Users include not only those who have been successfully housed but also those who are awaiting offers. In order to be accountable you have to make sure that your information on the outcomes of your allocations policy are easily understood and relevant. One key point to remember is that you should report allocations outcomes in a way that protects the confidentiality and privacy of the people you have housed.

7.3 Monitoring

To help you assess and continuously improve your performance the Scottish Housing Regulator has provided you with a range of material, including a range of self assessment questions. You should consider the following questions on your processes:

- Do you have an accessible and fair appeals process?
- Do you publish outcome information, including equalities information, to demonstrate transparency and accountability in your decision-making in allocations?
- Do you have quality assurance systems that help you to demonstrate consistency, fairness and accountability in the way you let houses.
- Do you monitor and report outcomes to ensure your objectives are being achieved?
- Do you find out what your service-users' think of your access arrangements? What are satisfaction levels?

SECTION 19-21 OF THE HOUSING (SCOTLAND) ACT 1987: AS AMENDED BY THE HOUSING (SCOTLAND) ACT 2001

19 Admission to housing list.

(1) An applicant for housing held by a local authority or a registered social landlord is entitled to be admitted to a housing list unless the applicant is under 16 years of age.

(2) In this section, "housing list" means a list of applicants for housing which is kept by any housing provider or jointly by or on behalf of any two or more housing providers in connection with the allocation of housing held by it or them for housing purposes.

(3) In subsection (2), "housing provider" means any local authority or any registered social landlord.

20 Persons to have priority on housing list and allocation of housing. [\[1\]](#)

(1) A local authority and a registered social landlord shall, in relation to all houses held by them for housing purposes, secure that in the selection of their tenants a reasonable preference is given -

(a) to persons who -

(i) are occupying houses which do not meet the tolerable standard; or

(ii) are occupying overcrowded houses; or

(iii) have large families; or

(iv) are living under unsatisfactory housing conditions; and

(b) subject to subsection (1A), to homeless persons and persons threatened with homelessness (within the meaning of Part II).

(1A) Homeless persons and persons threatened with homelessness (within the meaning of Part 2) are to be disregarded for the purposes of subsection (1) if they would not be such persons without the local authority having had regard to a restricted person (also within the meaning of Part 2).

(2) In the allocation of housing falling within subsection (1) a local authority and a registered social landlord -

(a) shall take no account of -

(i) the length of time for which an applicant has resided in its area; or

(ii) any outstanding liability (for payment of rent or otherwise) attributable to the tenancy of any house of which the applicant is not, and was not, when the liability accrued, a tenant; or

(iii) any liability (for payment of rent or otherwise) of the applicant which is attributable to the applicant's tenancy of a house but which is no longer outstanding; or

(iv) any such liability which is outstanding but in respect of which subsection (2A) is satisfied; or

(v) any outstanding liability of the applicant or any person who it is proposed will reside with the applicant which is not attributable to the tenancy of a house; or

(vi) except to the extent permitted by subsection (2B), the age of the applicant provided that the applicant has attained the age of 16 years; or

(vii) the income of the applicant and his family; or

(viii) whether, or to what value, the applicant or any of his family owns or has owned (or any of them own or have owned) heritable or moveable property;

(aa) shall take no account of whether an applicant is resident in their area if the applicant -

(i) is employed, or has been offered employment, in the area; or

(ii) wishes to move into the area and they are satisfied that his purpose in doing so is to seek employment; or

(iii) wishes to move into the area to be near a relative or carer; or

(iv) has special social or medical reasons for requiring to be housed within the area; or

(v) is subject to conduct amounting to harassment ("conduct" and "harassment" being construed in accordance with section 8 of the Protection from Harassment Act 1997 (c40)) and wishes to move into the area; or

(vi) runs the risk of domestic abuse (within the meaning of section 33(3)) and wishes to move into the area; and

(b) shall not impose a requirement -

(i) that an application must have remained in force for a minimum period; or

(ii) that a divorce or judicial separation be obtained; or

(iii) that the applicant no longer be living with, or in the same house as, some other person, before the applicant is eligible for the allocation of housing.

(2A) This subsection is satisfied in respect of an outstanding liability where:

(a) the amount of the outstanding liability is not more than one twelfth of the annual amount payable (or which was payable) by the applicant to the landlord in respect of the tenancy in question; or

(b) the applicant -

(i) has agreed with the landlord an arrangement for paying the outstanding liability;

(ii) has made payments in accordance with that arrangement for at least three months; and

(iii) is continuing to make such payments.

(2B) A local authority and a registered social landlord may take into account the age of applicants in the allocation of -

(a) houses which have been designed or substantially adapted for occupation by persons of a particular age group;

(b) houses to persons who are, or are to be, in receipt of housing support services (within the meaning of section 91 of the Housing (Scotland) Act 2001 (asp 10)) for persons of a particular age group.

(3) A member of a local authority shall be excluded from a decision on the allocation of local authority housing, or of housing in respect of which the local authority may nominate the tenant, where -

(a) the house in question is situated; or

(b) the applicant for the house in question resides, in the electoral division or ward for which that member is elected.

(4) In the application of this section to registered social landlords, any reference to their area means the local authority area or areas, or the part of that area or those areas, in which the registered social landlord holds houses for housing purposes.

21 Publication of rules relating to the housing list and to transfer of tenants. [\[2\]](#)

(1) It shall be the duty -

(a) of every local authority to make and to publish in accordance with subsection (4), and again within 6 months of any alteration thereof, rules governing -

(i) [...]

(ii) the priority of allocation of houses;

(iii) the transfer of tenants from houses owned by the landlord to houses owned by other bodies;

(iv) exchanges of houses.

(b)[...]

(2) It shall be the duty of every registered social landlord -

(a) to make rules governing the matters mentioned in subsection (1) (a) (ii) to (iv);

(b) within 6 months of the making of rules under paragraph (a), and within 6 months of any alteration of such rules (whether or not made under that paragraph) -

(i) to send a copy of them to each of the bodies mentioned in subsection (3);

and

(ii) to publish them in accordance with subsections (4) and (5).

(3) The bodies referred to in subsection (2) (b) (i) are -

(i) [...]

(ia) the Scottish Ministers;

(ii) every local authority within whose area there is a house let, or to be let, by a registered social landlord under a Scottish secure tenancy.

(4) The rules to be published by a body in accordance with subsection (1) or (2) shall be -

(a) available for perusal; and

(b) on sale at a reasonable price; and

(c) available in summary form on request to members of the public, at all reasonable times -

(i) in a case where the body is a local authority or a development corporation, at its principal offices and its housing department offices; and

(ii) in any other case, at its principal and other offices.

(5) Rules sent to a local authority in accordance with subsection (2)(b) shall be available for perusal at all reasonable times at its principal offices.

(6) An applicant for housing provided by a body mentioned in subsection (1) or (2) shall be entitled on request to inspect any record kept by that body of Information furnished by him to it in connection with his application.

[\[1\]](#) NOTES to s20 Amendment Sub-s (3): added by the Leasehold Reform, Housing and Urban Development Act 1993, s154.

[\[2\]](#) NOTES to s21 Amendment Sub-s (1): substituted by the Leasehold Reform, Housing and Urban Development Act 1993, s155(1).