**KILKENNY COUNTY COUNCIL**

**ALLOCATION SCHEME**

**For**

**Social Housing Support**



***In accordance with***

***Section 22 of the Housing (Miscellaneous Provisions) Act, 2009***

***And***

***Social Housing Allocation Regulations 2011 (S.I. No. 198 of 2011)***

***June 2011***

**Part 1: Interpretation**

In this allocation scheme –

***“Kilkenny County Council”*** shall be construed as including the functional area of Kilkenny County Council.

**(A) Purpose of the Scheme**

The purpose of the Allocation Scheme is to provide a means of determining the order of priority to be accorded in the allocation of dwellings to:

* persons assessed as being qualified for social housing support in accordance with Section 20 of the Housing (Miscellaneous Provisions) Act, 2009 (and associated regulations);
* persons transferring from a dwelling, including from a dwelling provided under the Social Housing Leasing Initiative or the Rental Accommodation Scheme **and**, including transfers to new dwellings being purchased under the Incremental Purchase Scheme.

***This allocation scheme applies to –***

(a) Dwellings provided under the Housing Acts 1966 to 2009 or Part V of the Planning and Development Act 2000 –

(i) of which the housing authority (Kilkenny Local Authorities) is the owner, or

(ii) of which the housing authority is not the owner and which are provided under a contract or lease between the housing authority and the owner concerned, including rental accommodation availability agreements,

**and**

(b) dwellings owned and provided by Approved Housing Bodies (AHBs) to whom assistance is given under section 6 of the Housing Act 1992 for the purposes of such provision.

**(B) The manner in which dwellings are allocated**

The manner in which Kilkenny County Council (hereinafter called the housing authority) will allocate dwellings, or different categories of dwellings, to households referred to in Section 22(3) of the Act of 2009, or to different classes of households, shall have regard to the order of priority as set out in (c) to (e) hereunder.

**(C) Order of Priority**

In the making of any allocation, the following priorities shall apply in the order as set out hereunder:

1. Emergencies:

(a) Persons being displaced from Dangerous buildings under the Local Government (Sanitary Services) Act, 1964, or potentially dangerous buildings under the Fire Services Act 1981, as amended, or persons rendered homeless by fire, flood, storm damage etc. or by operations of the Kilkenny County Council from dwellings urgently required for redevelopment.

(b) Households that are homeless as defined by Section 2 Housing Act 1988. Accommodation made available in this category may include Tenancy sustainment supports

2. Applicants living in unfit Conditions as defined in Section 66 of the Housing Act, 1966.

3. Applicants living in overcrowded conditions as defined in Section of 63 of the Housing Act, 1966.

4. Older persons (aged 55 yrs or more). Accommodation under this category will be those provided specifically for older persons or that is specifically suited to the older person’s need.

5. Applicants in need of housing on disability, medical, compassionate or other similar grounds

6. Traveller Households: Including households who wish to be housed in standard social Housing supports and in Traveller specific accommodation under this category will be provided in accordance with the Kilkenny County Council Traveller Accommodation Programme

7. Applicants not included in any other category above, who have been assessed and approved for Social Housing Support.

Whilst allocations will be made in accordance with the above order of priority, where a number of applicants fall within the same category, regard shall be had to the length of time that has elapsed since the applicant qualified for inclusion as a qualified applicant for housing by Kilkenny County Council.

All Allocations shall be subject to Section (G) (ii) hereunder and all shall also be subject to principles of good estate management.

All nominations to dwellings owned and provided by Approved Housing Bodies shall also follow the above order of priority.

**(D) Exceptions**

Notwithstanding anything in Section C above, the housing authority may disregard the order of priority given to a household under an allocation scheme where the household is being provided with social housing support in the following circumstances: -

* persons in need of accommodation arising from specified exceptional circumstances, including displacement by fire, flood or any other emergency, development, redevelopment or regeneration of an area by the housing authority, or exceptional medical or compassionate grounds;
* in a dwelling let to the household under a Chapter 4 tenancy agreement having been assessed under Section 20 (3), i.e. RAS accommodation.

In the allocation of RAS accommodation, the Housing Authority will have regard to the length of time a household has been in receipt of rent supplement; the length of time a household has been on the waiting list for social housing support, or a combination of both; and will be subject to Section (F) (ii) hereunder.

The Council may, in certain circumstances, disregard any applicant’s present accommodation and circumstances, if the Council has reason to believe that the applicant/household has, deliberately or without good cause and sufficient reason, remained in or taken occupation of unsuitable accommodation primarily to improve the prospects of obtaining a tenancy from the Council.

**(E) Medical Report**

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

Where a priority is awarded, this priority may cover a particular type of accommodation and/or accommodation in a particular area.

**(F) General Provisions**

The following special conditions shall apply in respect of the Allocation Scheme for the Letting of Dwellings:

The Council may, from time to time, as they see fit, designate a particular number or proportion of dwellings becoming available to the Authority for allocation for all or any of the following purposes:

1. allocation to particular classes of household, e.g. older persons, persons with disabilities etc., thus affording priority in the allocation of those dwellings to approved households in the relevant category of need;
2. allocation to households transferring from all other forms of social housing support (e.g. RAS Units, Voluntary Housing Units) and leased units;
3. for particular forms of tenure, including an **Incremental Purchase dwelling**;
4. for allocation under **Choice Based Lettings** (CBL) subject to s.14 Housing (Miscellaneous Provisions) Act 1997

The procedure applied by the housing authority for an ***Incremental Purchase Scheme*** will be as set out in Part 3 of the 2009 Act and the Housing (Incremental Purchase) Regulations 2010 (S.I. No. 252 of 2010). Properties are designated by Manager’s Order for use for Incremental Purchase Schemes.

* The procedure applied by the housing authority for **Choice Based Lettings** will be as set out in Sections 6 – 11 of the Social Housing Allocation Regulations 2011. In accordance with Regulation 12 (4), a refusal of an offer made under a CBL shall not constitute a refusal as per Section (G) (i) below. In accordance with Regulation 10(1), where an applicant refuses a reasonable offer of a CBL, the household cannot bid for another CBL dwelling for 1 year. Properties are designated by Manager’s Order for use for Choice Based Lettings.
* Where an *elderly applicant* is the beneficial owner of a dwelling which is no longer adequate to meet their needs such applicant will be considered for re-housing.
* The Council may from time to time decide to allow for the setting aside of a house or houses for Community use subject to specified terms and conditions.
* Attendance at and successful completion of pre tenancy courses is a requirement for all allocations including both parties in the case of joint applicants.
* In the interest of good estate management the Council will have regard to the need to sustain a balanced community.

**(G) Refusals**

**(G)(i) Refusal of offers of dwelling allocations**

Two refusals of reasonable offers of social housing (over a twelve month period and within areas of choice, except in emergencies, etc.) will result in a household being deemed to have forfeited consideration for social housing for a specified period (two refusals will also mean that a household may lose rent supplement),

In the event of two refusals, Kilkenny County Council will suspend a household from consideration for 12 months from the date of the second refusal. This will mean that the household will not be offered social housing for the suspension period and this period will not subsequently count for ‘time on list’ purposes.

An offer of a dwelling allocation by the housing authority shall be deemed to be reasonable where, in the opinion of the Council, the accommodation offered, would meet the accommodation needs and requirements of the household and the dwelling is situated in the area of choice specified by the household. The only exception to this is where the Council makes an offer because of specified exceptional circumstances, including displacement because of fire, flood or other emergency, development, redevelopment and regeneration of an area or exceptional and compassionate grounds. In these circumstances, the Council does not have to offer the household accommodation in their area of choice for it to be considered a reasonable offer.

Refusal of offers of accommodation offered under RAS and/or Leasing will be treated as a refusal of accommodation.

Applicants who are aggrieved with the decision of Kilkenny County Council have the right to appeal in writing within 10 days of the date of said decision to the Director of Services.

The refusal of an offer made under Choice-Based Letting does not count as a refusal for the purposes of the general refusals policy.

**(G)(ii) Refusal of Housing Authority to allocate**

Notwithstanding anything contained in the Housing Acts 1966 to 2009 or in an Allocation Scheme made under section 22 of the 2009 Act, the housing authority may use its right under Section 14(1) (as amended) of the Housing (Miscellaneous Provisions) Act, 1997 to refuse to allocate or defer the allocation of a dwelling to a person where -

(a) the authority considers that the person/household is/has been engaged in anti-social behaviour or that an allocation to that person would not be in the interest of good estate management, **or**

(b) the person fails to provide information, including information relating to persons residing or to reside with that person, which is requested by the housing authority and which the authority considers necessary in connection with an application for an allocation, **and**

(c) subject to any further provisions contained within Kilkenny County Council’s Adopted Anti-Social Behaviour Policy.

**(H) Former Local Authority Tenants**

Former Local Authority tenants, who reapply for social housing support, will be placed on the housing waiting list and will only be allocated housing if the following conditions are complied with:

* They did not abandon a local authority tenancy without good reason in the previous five years.
* They did not surrender a local authority tenancy without good reason in the previous two years. (See Note)
* The rent account on their previous tenancy is clear
* Their compliance, during their previous tenancy, with the Kilkenny County Council’s Letting Conditions was satisfactory, with in particular the provisions relating to Estate Management and anti-social behaviour.
* All security, cleaning and cost of repairs of any damage done by the former tenant is paid.
* They are in need of accommodation and are unable to provide it from their own resources.

**Note:** Tenancies must be surrendered in writing to the relevant Local Authority by each tenant. The keys of the property must only be submitted to an employee of the Local Authority. Applicants for rehousing must furnish Kilkenny County Council with all information in relation to the surrendering of their previous tenancy and it will be at the discretion of the local authority to place them on the Housing waiting List.

**(I) Transfers Of Tenants**

Tenants of the Council, including tenants of dwellings provided under the Social Housing Leasing Initiative, RAS, or by AHB’s may apply for consideration for a transfer to other dwellings, under the following circumstances -

(a) overcrowding;

(b) where older persons and other households wish to move to smaller accommodation (downsizing);

(c) medical/compassionate reasons;

(d) other exceptional circumstances.

(e) To facilitate incremental purchase, where the authority has consented to such a purchase.

Note: The Council may seek to transfer tenants in order to achieve maximum use of housing stock in accordance with Government policy as laid out in **‘Building Homes; Sustaining Communities’**.

Notwithstanding the above, tenants seeking a transfer must fulfil the following requirements to the satisfaction of the housing authority –

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

In the case of emergency or exceptional medical/compassionate grounds, the Council may forgo any or all of the above conditions in granting a transfer of tenancy.

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

Two refusals of reasonable offers of a transfer over a twelve month period will result in a household being deemed to have forfeited consideration for a transfer for a period of two years.

**(J) Succession Tenancies**

1. In the event of the death of one of the tenants in a joint tenancy, the tenancy will ordinarily be transferred to the surviving tenant or the spouse/partner, provided that he/she has been continuously resident in the dwelling for a continuous period of at least two years immediately prior to the death of the tenant and has been declared for and assessed for rent purposes for that entire period and is 18 years or older. Periods of residence not declared for rent assessment purposes are not applicable.

2. In the event of death of both spouses, tenancy will ordinarily be transferred to the eldest member of the family provided that:

(a) he /she has a housing need and is resident and has continued to reside in the house throughout his/her lifetime and has been continually declared for and assessed for rent purposes; or

(a) He /she is living in the house and has been declared/assessed for rent purposes , for a continuous period of at least 2 years immediately prior to the death of the tenant.

(b) He/she must be 18 years or older

Where there are two or more surviving members of the family who meet the criteria at a), b) or c) above, a joint tenancy may be granted by Kilkenny County Council or where agreement cannot be reached regarding the family member to succeed, the House automatically reverts to Council.

1. Marital Breakdown

Legal Separation/Divorce: Where a legal separation agreement/divorce exists, regard will be had by the Kilkenny County Council to the terms of that agreement in the consideration of any application to succession to tenancy.

2. Desertion

Where there is no legal separation or divorce agreement and where the Kilkenny County Council are satisfied that a spouse has vacated the tenancy for a period of at least two years, Kilkenny County Council may consider an application for succession of tenancy from the remaining spouse and approve the tenancy if considered appropriate. Where a person other than a spouse is a joint tenant of a dwelling and has not resided in that dwelling for a period of at least two years, the Council may consider an application for succession from the remaining members of the household and approve the tenancy if considered appropriate.

All succession to Tenancy applications are subject to

a) Household complies with Council’s Anti-Social Behaviour Policy

b) All aspects of any previous tenancy agreement in any Housing Authority

In addition to the above, successions will only be considered for immediate family members and or those who have already been approved for permission to reside there.

**(K) Other Matters**

Kilkenny County Council may from time to time review this allocation scheme, and revise it by way of amendments to the scheme or make a new scheme, subject to the approval of the Council. Before making or amending an allocation scheme, the housing authority shall provide a draft of the scheme or amendment to the scheme, as the case may be, to the Minister, who may direct the Council to amend the draft scheme or draft amendment, and the Council shall comply with any such direction within such period as may be specified by the Minister.

The Council will investigate each applicant’s previous housing history and reserves the right to seek all relevant information from other Local Authorities and other statutory agencies such as The Health Authorities or the Gardai with particular reference to anti-social behaviour.

A copy of the Scheme will be available for public inspection at the offices of the Council during office hours and will also be available on the Council’s website at www.kilkennycoco.ie

**(L) Appeals**

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