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<b>Department</b>	Housing Management
<b>Title</b>	<b>These Homes (Allocations) Policy</b>
<b>Responsible</b>	Director of Housing
<b>Last Review Date</b>	May 2022
<b>Next Review Date</b>	May 2027

## **1.0 Introduction**

East Lothian Housing Association is a Housing Association registered with the Scottish Housing Regulator and with Charitable Status. We provide quality, affordable, and sustainable housing and associated services for people in East Lothian.

Most of our homes are allocated through our digital lettings service, These Homes. Some are not, and these include:

- Workshop homes
- Houses for sale, whether Shared Ownership or Low Cost Home Ownership
- Allocations that have been agreed under a separate lease with one of our partner agencies or other similar agreement

More information about these types of homes can be found at Section 1.5 and in **Appendix 1**.

## **1.1 Our Aims**

We aim to ensure that:

- People have fair and open access to our Housing Register
- Reasonable preference is given to those in housing need
- Our homes are allocated in a fair, transparent, and consistent manner that does not unfairly discriminate or exclude people
- We recognise the needs of the communities we work in
- We make the best use of our available homes

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- Our policy is clear and easily understood
- Applicants are given reasonable choice, and our allocations result in sustainable tenancies

### 1.2 Legislative / Regulatory Framework

This Policy and the procedures, publications and websites that support it, are based on the principles set out in the Scottish Government’s Social Housing Allocations in Scotland: Practice Guide, published in 2019. In addition, we aim to fully comply with the Scottish Housing Regulator’s Social Housing Charter Indicators which support the requirements of the Scottish Social Housing Charter, and in particular, the following outcomes:

<b>Equalities</b>	Social landlords perform all aspects of their housing services so that: Every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.
<b>Communication</b>	Tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides.
<b>Participation</b>	Tenants and other customers find it easy to participate in and influence their landlord’s decisions at a level they feel comfortable with.
<b>Housing options</b>	Social landlords work together to ensure that: <ul style="list-style-type: none"> <li>• People looking for housing get information that helps them make informed choices and decisions about the range of housing options available to them</li> <li>• Tenants and people on housing lists can review their housing option</li> <li>• People at risk of losing their homes get advice on preventing homelessness.</li> </ul>
<b>Access to social housing</b>	People looking for housing find it easy to apply for the widest choice of social housing available and get the information they need on how the landlord allocates homes and their prospects of being housed.
<b>Tenancy sustainment</b>	Social landlords ensure that tenants get the information they need on how to obtain support to remain in their home; and ensure suitable support is available, including services provided directly by the landlord and by other organisations.
<b>Homeless people</b>	Homeless people get prompt and easy access to help and advice; are provided with suitable, good-quality temporary accommodation when this is needed and are offered continuing support to help them get and keep the home they are entitled to.

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We will comply with all relevant legislation including:

- The Housing (Scotland) Act 1987 (as amended)
- The Housing (Scotland) Act 2001
- The Housing (Scotland) Act 2014
- The Homelessness etc (Scotland) Act 2003
- The Human Rights Act 1998
- The Equalities Act 2010
- The Data Protection Act 2018

### **1.3 Context**

East Lothian is an area of exceptional housing pressure. Situated to the East of Edinburgh, the area is predominately rural, with a coastline characterised by beaches, seaside towns and golf courses.

As well as being a significant destination for tourists and day trippers, East Lothian has good road and rail links to Edinburgh, and therefore attracts large numbers of (predominantly higher income) commuters. It is also an area to which many people often choose to move in older age.

Locally, the economy is dependent on service industries, tourism and farming, and wages are often low. This means that many low and middle-income households in the area are priced out of the local housing market. The area has a significant homelessness problem.

Land supply is severely constrained, both by the local environment, but also as there is usually opposition to new developments in most towns and villages, even where that development is affordable rented housing. As a result, land prices are often exceptionally high.

Our problems are therefore quite different to many other areas. It is unlikely that on any scale East Lothian will suffer from low demand issues in the foreseeable future, any such issues are likely only to relate to specific properties and in exceptional circumstances.

Our housing stock includes:

- General needs housing- flats and houses with between one and six bedrooms
- Care / Supported housing with access to support to enable independent living
- Amenity and sheltered housing for older people
- Housing for wheelchair users, specifically designed to meet the needs of people who use wheelchairs or other mobility aids

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In addition, we own several Workshop Homes, Shared Ownership properties, Garages, Garage Sites, and other non-residential properties. Some of these may be advertised on These Homes from time to time but are not allocated in accordance with this Policy.

Our area of operation is from Musselburgh to Innerwick across the Local Authority district of East Lothian. Since we were founded in 1988, we have built around 70% of our homes, and we acquired the remaining 30% from Scottish Homes in 1996 through a large-scale voluntary stock transfer. This means that the age profile of our housing stock varies significantly.

Across Scotland, there are not enough houses for all who need them, and the situation is particularly acute in East Lothian. This Policy is therefore designed to make best use of the very limited housing supply we have, by giving preference to applicants in housing need and prioritising transfers for our own tenants, so that each vacancy has the potential to address the housing needs of more than one applicant.

We also know there is a high demand for one-bedroom homes in East Lothian. We prefer to build homes with a minimum of two bedrooms, though there will be exceptions where we cannot do this, for example, in a restricted town centre site or a conversion of an existing property. If we build two-bedroom homes in a new development, we will agree to under-occupy a proportion of these, taking account of the demand and property type.

### **1.4 General Principles**

#### **1.4.1 Choice and empowerment**

We want to maximise opportunities for access to housing and allow applicants to make informed choices. We operate These Homes, where available homes are advertised, and applicants apply for the ones they want. We aim to keep the service as easy to use as possible, and to provide clear information and advice so that applicants can make informed choices.

#### **1.4.2 Housing Need**

We recognise housing need through a system of Priority Passes, which is explained in Section 3 below.

#### **1.4.3 Lettings to Staff and Management Committee Members**

Our policy must operate fairly, and Management Committee members, staff or people close to them must not be given any preferential treatment in the allocations process, neither should they be disadvantaged. We have Codes of Conduct in place for both our Management Committee and Staff members, and an Entitlements, Payments and Benefits Policy which they must all follow. These processes are in place to ensure that Management Committee and Staff members do not gain any unfair advantage through their connection to ELHA. If a Management Committee or staff member or someone close to them is allocated a tenancy, we will ensure that:

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- The allocation is in accordance with this Policy **and**
- Neither the applicant, nor anyone connected to the applicant, is involved in any way or in any part of the allocation process **and**
- The offer is approved by our Management Committee in advance **and**
- The tenancy is recorded as an interest in our Register of Payments and Benefits within five days of the tenancy commencing

### 1.4.4 Sustainable Communities

Sustainable communities are places where people want to live and work, now and in the future. We want to create and maintain such communities and will try to achieve this by avoiding over concentrating any particular client group in any particular area. Wherever possible, we will try to identify any imbalance, and any action required to address it, before a home is advertised. We will include information about any criteria to be applied in the advert.

If we need to by-pass an applicant in the interests of maintaining a sustainable community, we will always try to balance the interests of the individual with the interests of the community and will bear in mind the requirement to give reasonable preference to certain categories of applicant. We will record the reasons for the decision and report such allocations to our Audit & Assurance Committee to ensure the decisions we make are fair and consistent.

### 1.4.5 Lettings Plans

Lettings plans are used to create or promote sustainable communities and are usually time limited. Homes subject to a Lettings Plan may be advertised for a specific client group or household type, and when allocating them, consideration will be given to the requirements of the Lettings Plan. As a result, some applicants may not be made an offer, even if they have more priority than another applicant. See **Appendix 5** for more information.

### 1.4.6 Sustainable Tenancies

We have a Tenancy Sustainment Policy that seeks to identify and address potential problems at the point of allocation, so that we can ensure appropriate support is provided to enable the applicant to successfully remain in the tenancy. We will carry out an affordability assessment before any new tenancy starts and will address any affordability issues by referring new tenants to our Money Advisor for income maximisation, debt, and budgeting advice.

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### 1.4.7 Partnership Working

We work in partnership with East Lothian Council to ensure that:

- 50% of our available properties are allocated to statutorily homeless households. We have a Nomination / Section 5 Protocol Agreement in place for this purpose
- Access to our joint Mutual Exchange list is available to anyone seeking to swap their home with another tenant
- The National Accommodation Strategy for Sex Offenders (NASSO) operates effectively in East Lothian
- We meet our obligations under the East Lothian Rapid Rehousing Transition Plan which sets out how the Council and its key partners anticipate will develop their approach to rapid rehousing over a five year period from 1 April 2019 to 31 March 2024

We will work with the Council, other Housing Associations, and organisations wherever this will help in addressing housing need in East Lothian, for example by leasing accommodation to partner organisations to help meet particular needs.

We are currently one of several social landlords working throughout Scotland that use These Homes to advertise our available homes. By completing one registration form applicants can choose to be registered with one or all of the landlords offering homes for rent in the areas they wish to be housed in. We encourage feedback from tenants and applicants and use this to improve our service.

### 1.4.8 Moving to Other Areas

We aim to help people who want to move around the country, and we will consider applicants who need to move to East Lothian for work, family or medical reasons or to escape harassment or abuse. We do not subscribe to any of the home swap schemes that require us to pay to participate, but we will pay for individual ELHA tenants who wish to join such schemes.

We administer an online exchange register open to anyone looking for a Mutual Exchange (where two or more tenants agree to swap their homes), called East Lothian X-Changes <https://www.elha.com/mutual-exchanges>. We will support our tenants who want to move, by providing details of landlords in their areas of choice. We will actively consider requests from other landlords throughout the UK to house applicants with high levels of housing need.

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### 1.4.9 Connection to East Lothian

We will assess the needs of everyone who applies to us for a Priority Pass in the same way, however, when allocating properties, applicants with a local connection to East Lothian) will be prioritised over those with no connection to the area. Local Connection is defined in Section 20(2)(aa) of the Housing (Scotland) Act 1987, which also states the circumstances when local connection must not be taken into account

We cannot take local connection into account unless an applicant:

- Works in East Lothian, has been offered employment in the area, or they want to move to the area to look for work. We would need to be satisfied that the applicant looking for work had a specific need for working in the area that could not be met in their own area, and would ask for evidence to support this, for example, confirmation of interview and rejection of employment letters
- Would like to move to East Lothian to be nearer a carer or to be closer to family and would ask for evidence to confirm this. Family is defined in the Housing (Scotland) 2001 Act as spouse, civil partner, parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew niece, stepchild or a person who has been brought up by another person and treated as their child
- Has special social or medical reasons for requiring to be housed in East Lothian
- Is subject to harassment
- Is subject to or at risk of domestic abuse

If an applicant meets our criteria for a Priority Pass but does not either currently live in East Lothian or have a local connection to East Lothian, then the Priority Pass will not be awarded, and they will not be given priority over other applicants who do have a local connection to East Lothian.

### 1.4.10 Home Ownership

We have the right to take account of whether an applicant owns or has owned property before deciding to allocate them a home unless in the following circumstances:

- The property has not been let, but the owner cannot secure entry to the property, for example, it would not be safe to enter due to severe structural faults or where there are squatters living in the property
- Where it is probable that occupying the property will lead to abuse from someone currently living in the property
- Where it is probable that living in the property will leave to abuse from someone who previously resided with the applicant whether in that property or elsewhere

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- Where occupation of the property may endanger the health of the occupants and there are no reasonable steps that can be taken by the applicant to prevent that danger

When offering a tenancy to a person who is a homeowner, we will consider whether the housing needs of that person can be met through the temporary allocation of a home by a Short Scottish Secure Tenancy (SSST), which will be for an initial period of six months, which may be extended.

If we propose to offer a SSST we will advise the applicant of this, and the reasons for our decision at the time of the offer. The applicant may appeal this decision.

### 1.4.11 Temporary Tenancies

Most of the tenancies that we offer will be Scottish Secure Tenancies that provide long term security of tenure, however, in some limited circumstances, we may offer a Short Scottish Secure Tenancy (SSST) instead. The circumstances in which we may offer a SSST are:

- Where an applicant is a homeowner who cannot live in their property because repairs are required to make their home safe or adaptations are necessary to meet the needs of the applicant or a member of their household, or the property is being sold to enable the purchase of an alternative, more suitable property
- Where, in the previous three years, an applicant or a member of their household has been evicted from a previous tenancy because of antisocial behaviour or has had an antisocial behaviour order (ASBO) served against them, or where a course of antisocial behaviour has been carried out
- A temporary let is needed for a person moving into the area to take up employment, to enable them to seek accommodation
- A temporary let is needed pending development affecting a property
- A temporary let is needed for a homeless person for a tenancy 6 months or over
- To someone receiving housing support services
- Where the property leased by us from another body where the terms of the lease preclude us from subletting under an SST

If we grant a SSST which we decide not to either extend or convert to a Scottish Secure Tenancy, we will notify the tenant of the reasons for our decision and the tenant has the right to a review of this.



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### **1.4.12 Joint Tenancies**

We advise all applicants of their right to apply for a joint tenancy with a person who is either living with them or intending to live with them.

### **1.4.13 Kinship Carers, Foster Carers & Those Adopting**

We will consider giving priority to those applicants who have been approved for adoption or are approved for fostering or kinship carers.

Though our assessment of housing need is always based upon current circumstances, we will consider giving priority where supporting evidence can be provided. We may work with the Children and Young Peoples Services to decide at what stage it is appropriate to give priority.

### **1.4.14 Pets**

We do not limit the number of domestic pets in our homes but there are exceptions to this rule:

- We do not normally allow dogs in flats within a communal stair, with the exception of Assistance Dogs (when we advertise flats to which this ban applies, we will clearly state this in the advert to ensure that applicants are aware of the ban)
- In some new developments the Deed of Conditions, a legal document which sets out a structure to make sure that the development is maintained in the future for the benefit of all residents, may restrict the number and type of pets allowed; the rules in a Deed of Conditions takes precedent over the clauses in a tenancy agreement

### **1.4.15 Equal Opportunities**

We will not unfairly discriminate against anyone. We will make information available in different formats as appropriate and will provide free access to translation services in our office if they are needed. We will monitor our allocations to ensure that nothing in this Policy leads to unfair discrimination.

### **1.4.16 Confidentiality**

We will treat all personal information as completely confidential and use it only for the purpose of operating this Policy. We will obtain or pass on information only in accordance with the declaration signed by applicants as part of the registration process or with the applicant's consent, or if we are required to do so by law or by our Regulators.

### **1.4.17 Appeals**

Applicants have the right to appeal any decision made in accordance with this Policy. Our Appeals Procedure is described at Section 6.

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### **1.5 Allocations Not Covered by this Policy**

There are occasions when we will not advertise some of our available homes and allocate them differently. We will do this in various circumstances including where:

- We cannot identify suitable applicants for a specially adapted property through advertising
- We are seeking to accommodate people coming to the UK under an official Resettlement Programme (any allocations like this will be reported to our Audit & Assurance Committee)
- We have referral arrangements in place with specialist agencies or organisations providing support to people with particular needs (any allocations like this will be reported to our Audit & Assurance Committee)
- Tenants choose to exchange properties with another landlord or ELHA tenant (these are known as Mutual Exchanges and the processes we use to manage these are set out in our Tenancy Management Policy)
- A person succeeds to, or is assigned a tenancy (how we deal with these situations is also set out in our Tenancy Management Policy)
- We may lease properties to other organisations or enter into nominations agreements with agencies providing support to people with particular needs (any allocations like these will be reported to our Audit & Assurance Committee)

### **1.6 Management Allocations**

In exceptional circumstances, we may allocate some of our homes on management grounds (this means we will not normally advertise the property but will allocate it direct to one applicant), for example where there are:

- High level support needs, severe harassment or domestic abuse
- Applicants with exceptional circumstances not otherwise covered by this Policy
- Individuals needing a particular type of property that may not come up for allocation very often so that their health or support needs can be addressed
- A series of possible moves that can meet the housing needs of several applicants, and the first suitable property to facilitate this is available
- Issues relating to an adapted or wheelchair property that means we need to move someone from that house
- Significant antisocial behaviour, harassment or abuse issues and we urgently need to move someone away from that situation

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We will avoid re-housing vulnerable applicants in properties where we are aware of an issue that we feel may make it more difficult for them to sustain a tenancy. This happens rarely.

Management allocations will be kept to a minimum, and a full record of the reasons for them will be set out in a report that will be retained with the allocation paperwork and will be reported to our Audit & Assurance Committee.

### **2.0 Admission to the Housing List**

All applicants aged 16 or over are eligible for our housing list. Any priority that we award will depend on their housing and housing related need as defined by our priority system which is explained in Section 3. We will grant applicants living out-with East Lothian priority if they need to move to East Lothian for work, family, or health reasons, or to escape harassment or abuse. We will also assess the housing needs of applicants with no connection to East Lothian, but will prioritise applicants with a connection when allocating properties.

#### **2.1 Registration Process**

To register with These Homes, applicants must complete an online registration at. Help is available at our office or over the telephone for anyone who needs support doing this. A paper form is also available. . An applicant can register online or in person at our office and apply for a suitable advertised home on the same day they apply.

Our registration form is kept as simple as possible and collects only information essential to our allocation process, housing need assessment and equalities monitoring.

At the point of registration, applicants are asked to tell us if they are homeless, overcrowded, have health problems or are living in accommodation suffering from disrepair. If they do, they will be asked to provide further information during registration, to allow us to assess if they qualify for priority. Applicants to the housing register are issued with a unique registration number on the day they register. Unless we have to verify any information provided in the registration, the applicant can begin applying for suitable advertised properties as soon as they are registered, except in the following circumstances:

- The applicant has debt relating to a previous or current tenancy and no re-payment arrangement is in place, or they have an arrangement but have not maintained it for 3 months or 13 consecutive weeks; they declare or we become aware of a history of antisocial behaviour or a criminal conviction relating to, or involvement in, the supply and use of illegal drugs or the applicant requires support to maintain a tenancy

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- Applicants who will not be assessed as having a housing need until a later date (for example, where the applicant is in tied accommodation, hospital or prison and this situation is not likely to change for at least one month), will be placed on the housing register but will remain suspended until the applicant contacts us to confirm that they are in a position to accept a tenancy
- Applicants leaving the armed forces can choose to have their circumstances assessed up to six months before their date of discharge then have their registration suspended so that they can benefit from an earlier date of registration or Priority Pass award, but they will remain suspended until they contact us to confirm that they are in a position to accept a tenancy

In all the above cases where an application is suspended, the suspension will last only for as long as it takes to obtain full information or rectify the situation. Further information about suspended applications is provided at Section 4.1 and **Appendix 4**.

We may ask for supporting documentation of relevant personal circumstances, for example, proof of residence or evidence of harassment, at any time during the registration / allocation process. We may also make relevant enquiries to confirm information given to us by the applicant.

We will make it clear to applicants who own their own home that it is a legal requirement that they must occupy a tenancy as their only or principal home. We will assess the priority of homeowners in exactly the same way as others.

### **3.0 Assessment of Housing Need**

#### **3.1 Priority Pass System**

Priority is awarded through a system of Priority Passes. All applicants will be encouraged to apply for priority to reflect their housing need.

There are five levels of Priority Pass; Platinum, Gold Plus, Gold, Silver and Bronze.

Applicants can apply for as many Priority Passes as they feel they may be entitled to. Priority can be awarded from one or more of the categories listed below, which are further defined in **Appendix 2**. A Priority Pass will only be awarded once in each category and will be the highest level of pass that the applicants' circumstances merit.

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<b>Homelessness</b>	<p>We recognise housing need due to homelessness by the award of Platinum Priority Passes.</p> <p>Any applicants where East Lothian Council has accepted a legal duty to house them in terms of the current homelessness legislation are awarded a Platinum Priority Pass, our highest level of Priority Pass.</p> <p>Most of our allocations to homeless households are made through These Homes. We have a Nomination / Section 5 Protocol Agreement in place with East Lothian Council to ensure that our agreed quota for allocations to statutorily homeless households is met (See Appendix 6).</p>
<b>Harassment and Abuse</b>	<p>We recognise housing need due to harassment or abuse by the award of Silver and Bronze Priority Passes.</p> <p>Harassment can be on the grounds of race, sex or sexual orientation, disability (including mental health problems), colour, religion or belief.</p> <p>We have a separate policy on harassment which applies to our tenants.</p> <p>Applicants suffering from harassment to the extent that they cannot occupy or have to leave their home will be encouraged to apply to East Lothian Council for assessment under the homelessness legislation, as this could result in the award of a Platinum Priority Pass, our highest level of priority.</p>
<b>Domestic Abuse</b>	<p>We recognise housing need due to domestic abuse from a current or ex-partner, by the award of Gold Priority Passes.</p> <p>We recognise that not all applicants will want to approach their local authority as homeless but know that victims and children are potentially at severe risk and continue to remain in that position whilst they remain in their home.</p> <p>We have a separate policy on domestic abuse which applies to our tenants, and we will seek to support victims who want to remain in their home but may need to move temporarily.</p>
<b>Medical</b>	<p>We recognise housing need due to health problems by the award of Gold and Silver Priority Passes.</p> <p>We will consider awarding priority for re-housing on health grounds only where a move may result in a significant improvement in the applicants' health or make their health issue much easier to cope with. We do not assess the severity of the medical condition; we only look at the impact a change of accommodation would have on their health or support needs.</p>

	<p>Assessments are based on permanent residential accommodation only, where the applicant is registered for Council Tax.</p> <p>In assessing applications on health grounds, we will always consider whether or not the applicant's current accommodation could be adapted to meet their housing needs.</p> <p>Medical Priority Passes are awarded based upon the information provided in the registration form and we provide guidance to staff to assist them in making these assessments. We will seek further information about the applicant's condition, the impact of re-housing and the type of property required from a health professional at the point of allocation, if this has not already been provided.</p> <p>Minor ailments or conditions that will not be improved by re-housing will not attract priority on health grounds.</p> <p>We may place restrictions on the type of property to be offered to an applicant who has been awarded priority on health grounds. For example, someone awarded priority due to difficulties managing stairs in their current accommodation will normally only be able to apply for homes on the ground floor.</p> <p>We will not normally allocate a home that would require significant adaptations to meet an applicant's needs unless we have no properties available that would meet the applicant's needs without adaptation. In these circumstances we will consider each case on an individual basis, in partnership with East Lothian Council's Social Work Department.</p>
<b>Overcrowding</b>	<p>We recognise housing need due to overcrowding by the award of Gold, Silver and Bronze Priority Passes. This section also covers the priority given to large families (who need four or more bedrooms) whose principal housing need is likely to arise from overcrowding.</p> <p>We only assess overcrowding for households that have outgrown their accommodation. If an applicant is living with family or a guardian, we will not take account of overcrowding that may already exist within the family but will only consider the needs of the applicant.</p> <p>The following occupancy levels are used to assess overcrowding and to allocate housing of an appropriate size:</p>

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	<ul style="list-style-type: none"><li>• All adults (over the age of 16 years) are entitled to a bedroom of their own, unless living with a partner, when they will be expected to share a double bedroom</li><li>• Two children of the same sex can share a double bedroom until one of them reaches the age of 16</li><li>• Children of the opposite sex can share a double bedroom until one of them reaches the age of 8</li><li>• In some cases, an adult / child's medical condition may mean that they need sole use of a bedroom (we will normally ask for proof of this requirement)</li><li>• An extra bedroom will be allowed if a carer needs to stay with the applicant for at least three nights per week (we will normally ask for proof of this requirement)</li><li>• If an applicant has residential access to a child or children for at least three nights per week, the applicant will be allocated one extra bedroom, if required, to accommodate the child or children (we will normally ask for proof of this requirement)</li><li>• If an applicant has access to a child or children for four nights a week or more, the child or children will be treated as permanent members of the household, and we will allocate a home of the appropriate size to accommodate them</li><li>• In recognition of the fact that overcrowding resulting from access to children is only for part of the week and is therefore not as bad as overcrowding due to children who live there full time, access overcrowding will attract lesser priority</li><li>• A living room should not have to be used as a bedroom unless it is to accommodate a child or children on residential access of less than three nights per week (and there are no issues with the heating system that would stop this)</li><li>• No more than two people should share a bedroom unless the applicant chooses to share a room with a child or children on residential access of less than three nights a week</li><li>• A box room or a room without natural light is not counted as a bedroom available to the household</li></ul>
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<p><b>Under-Occupation</b></p>	<p>We recognise housing need due to changing family circumstances resulting in an applicant now requiring a smaller home by the award of Gold and Silver Priority Passes. As this approach aims to free up larger homes for those who need them, this priority is only awarded to our tenants.</p>
<p><b>Unsuitable Housing</b></p>	<p>The Tolerable Standard is a basic level of repair a property must meet to make it fit for a person to live in, defined by legislation. We recognise housing need resulting from living in a home that is below tolerable standard, suffering from dis-repair or lacking amenities by the award of Gold and Bronze Priority Passes.</p>
<p><b>Social/Family Support and Employment</b> (Need to be in a Community and Need to be in a Rural Community)</p>	<p>We recognise housing need due to the need to be in a particular community within East Lothian by the award of Silver and Bronze Priority Passes.</p> <p>Priority may be awarded where an applicant needs to move to:</p> <ul style="list-style-type: none"> <li>• Take up or keep a permanent job (priority will normally only be awarded where the applicant is the main earner and the job is more than one hour's travel from their current home)</li> <li>• Be nearer amenities or services (we will consider the reasons why the applicant finds it difficult to access amenities or services, including availability of public transport)</li> <li>• Maintain contact with children</li> <li>• Give or receive support (we will consider the nature and frequency of the support provided or received)</li> </ul>
<p><b>First Affordable Home</b></p>	<p>People are often forced to continue living in their family home due to a lack of affordable housing options. We recognise housing need for this reason by the award of a Bronze Priority Pass.</p> <p>Priority is awarded to anyone living in the family home who has a total income of less than £30,000 a year and who have never held a social housing tenancy.</p>
<p><b>Living in Flats</b></p>	<p>We recognise housing need due to living in a flat for more than two years and the applicant wants to move to a house, by the award of a Bronze Priority Pass. This particularly benefits families with young children who would otherwise have no housing need, where there is no suitable play or storage facilities. The added benefit of this is to free up homes for those who need them, therefore this priority is only awarded to our tenants.</p>
<p><b>Transfers</b></p>	<p>Our tenants are subject to the same conditions of access, assessment and acceptance as external applicants (including the requirement to have kept a repayment agreement for any arrears or debts amounting to more than one month's rent for at least three months), with the following exceptions:</p>



	<ul style="list-style-type: none"><li>• We will inspect our tenant's home before a Priority Pass is awarded and will tell our tenant about any work they need to complete to bring the condition of the property up to a satisfactory standard, acceptable to us</li><li>• If our tenant needs to complete any work to fulfil the obligations of the Scottish Secure Tenancy Agreement, then their application will be suspended until they notify us that the work is complete, and we have inspected it</li><li>• If a transfer applicant has not applied for a Priority Pass then we will carry out a pre-inspection of their home before any conditional offer of housing is confirmed</li><li>• Transfers will not be approved unless the property to be vacated is in a condition where it can be immediately re-let</li><li>• Transfer applicants may be awarded priority for under-occupying their existing home</li><li>• Transfer applicants may be awarded priority for living in a flat for more than two years</li><li>• If a transfer applicant and another applicant have the same level of Priority Pass, the transfer applicant will be offered the home first, regardless of the date of registration or date of award of the Priority Pass</li><li>• Transfer applicants who have a clear rent account; maintain their home to an acceptable standard and have no history of neighbour problems or anti-social behaviour will be eligible for a Gold Plus Priority Pass (this gives them priority over all but Homeless applicants, or in situations where the property has been medically adapted, and our tenant does not need these adaptations but there are other applicants that do)</li></ul>
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### **3.2 Limitation of Passes**

We are committed to offering applicants as much choice as possible, however, in some circumstances awarding priority will result in restrictions on the type of property or area for which the applicant will receive priority.

We will limit Priority Passes awarded for social or family support or employment to a specific area.

We may also limit a Priority Pass to a particular type of property, for example to ground floor accommodation where a pass has been awarded for health related mobility problems, or to wheelchair accommodation where this is required by the applicant.

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Applicants who have had their Priority Pass limited by us can still apply for homes that fall out-with the pass limitations, but their Priority Pass will not be recognised for those homes.

### **3.3 Suspension of Priority Passes**

Where we consider that an applicant has intentionally or carelessly worsened their housing circumstances (for example, by moving from a house that was large enough for their household to one that is too small, causing overcrowding), their entitlement to a Priority Pass will be suspended for an initial period of twelve months with discretion to extend this suspension period to a maximum of two years.

The twelve months suspension will begin on the date the applicant worsened their circumstances. The applicant will still be able to apply for available homes but will have to re-apply for a Priority Pass at the end of the suspension period.

Except for Platinum Priority Passes, if an applicant has used a Priority Pass, to apply for a property and they refuse a reasonable offer, their Priority Pass will be withdrawn for a period of twelve months. It is the applicant's responsibility to re-apply for priority at the end of this period.

If a homeless applicant refuses an offer of a home, we will follow the procedure set out in the Nomination / Section 5 Protocol Agreement and inform East Lothian Council (See Appendix 6). The application will be suspended until the Council has completed its investigation.

## **4.0 Administration of the Housing List**

### **4.1 Suspended Applications**

We aim to keep suspended applications to a minimum and be clear about when they will apply and for how long. We may suspend applications for an initial twelve months with the discretion to extend the suspension for further periods of six months up to two years in the following circumstances, if an applicant has:

- Provided false or misleading information in connection with an application
- Carelessly or intentionally worsened their current housing circumstances to gain greater priority
- Acted in an antisocial manner in their community
- Acted in an antisocial manner towards a member of our staff or any of our Management Committee members during the application process

## Approved by Management Committee 26/05/22

- Had an ASBO issued to them or a member of their household within the last two years
- Been convicted of an offence that was committed in, or in the vicinity of, their home
- Been evicted from a previous tenancy
- Turned down one reasonable offer of housing
- Deliberately given us false information or omitting relevant information with the intention of being assessed with greater housing need than is the case
- Housing debt of more than one month and no arrangement is in place to pay off their debt or has not kept to an agreed arrangement for at least three months or 13 consecutive weeks (debts older than five years, which have not previously been pursued by the former landlord will be disregarded)

We may also suspend applications for the following reasons:

- The applicant has a change in circumstances
- We are waiting further information
- There are support issues
- The applicant is unable to take up a tenancy
- The condition of the property is not acceptable (ELHA transfers only)

We will regularly review suspended registrations to minimise the time any applicant is unable to apply for available properties.

**Appendix 4** provides more detailed information in relation to suspensions.

### 4.2 Withdrawal of Registrations

We will withdraw applications only under the following circumstances:

- At the applicants' request
- Where the applicant does not respond to an annual review and reminder letter
- If mail is returned marked "gone away" or not known at this address
- If the applicant does not respond to requests for information
- If the applicant dies

## **Approved by Management Committee 26/05/22**

We will re-register applicants on request, taking into account any changes in their circumstances. Their date of registration will normally be the date they re-apply, but applicants can ask to have their registration re-instated with their original registration date if there are exceptional circumstances and can appeal if any initial request is refused.

### **4.3 Review of Register**

We will review applicant registrations annually on the anniversary of the date of registration.

The review form will be short and only ask the applicant if they want to remain on the register and to report any changes in their circumstances. We will give applicants 28 days to respond.

If an applicant doesn't respond to an annual review, we will send a reminder, giving the applicant a further 14 days to respond. If the applicant does not respond to the reminder, we will withdraw their registration.

## **5.0 The Allocation Process**

### **5.1 Advertising and Applying for a Property**

We will normally advertise every second available home stating that Platinum Priority Passes are valid for the property, in line with our commitment to help alleviate homelessness. Platinum Priority Pass holders can apply for other available homes, but their Priority Pass will not be recognised.

Once we have been notified of a tenancy termination, we will decide if the property will be allocated in line with this section, or if it will be removed from the normal allocation process as outlined in Sections 1.6 (allocations not covered by this policy) and 1.7 (management allocations).

Available homes will be advertised weekly on [thesehomes.com](http://thesehomes.com) and [elha.com](http://elha.com), in our Head Office window, and on Facebook. We will also provide copies of our adverts to local Council housing offices, in libraries and the Citizen's Advice Bureaux for display. A dedicated phone line is also available giving details of available properties and allowing applicants to apply by phone.

We will assess properties individually and decide what constitutes "Best Use". For example:

- Adverts will include the number of bedrooms (a household makes "Best Use" of a property if it needs all of the bedrooms)
- We may take into consideration the mix of family sizes within the building or immediate area to maintain a balanced and sustainable community

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- An advert for sheltered housing will specify that normally only applicants aged over 60 will be considered
- An advert for amenity housing will state that normally only applicants aged over 50 will be considered
- An advert for a property with significant adaptations will specify that we will give priority to applicants whose medical needs mean that they need the adaptations regardless of whether or not they need all of the bedrooms

We will specify any best use criteria and a closing date for applications in the advert.

We will maintain a list of support providers and others such as Social Workers and Occupational Therapists who may be helping clients to find a new home and will send weekly lists of our available homes to them by e-mail.

Registered applicants may apply for as many advertised properties as they wish at any one time. They will be able to note their interest on thesehomes.com, by telephone, letter, or in person at our office.

When a registered applicant applies for more than one advertised home, we will assume that the order in which they apply is their order of preference.

No applications will be accepted after the advertised closing date and time.

### 5.2 How Properties are Allocated

An overview of the allocation process is attached at **Appendix 3**. Applicants with a connection to East Lothian will be prioritised over those with no connection. We will allocate advertised properties after the closing date for applications using our selection criteria as follows:

#### 5.2.1 Best use

The applicants who will make best use of the home by using all of the bedrooms or by using other features such as ground floor access, other adaptations, or suitability for wheelchair use, and who meet any age limitations.

#### 5.2.2 Priority Homeless

If the home has been advertised stating that Platinum Priority Passes are valid, only applicants with Priority Passes at that level will be considered in the first instance. If there are no applicants with a Platinum Priority Pass, we will revert to the procedure outlined in the Nomination / Section 5 Protocol Agreement with East Lothian Council. Only if no applicants are identified through this route, will we continue to work through the applications list.

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### **5.2.3 Priority Pass Level**

If more than one applicant makes best use of an advertised home, then the applicants are placed in order according to the level of Priority Pass that they hold. If more than one applicant has the same highest level of Priority Pass we will consider the applicant who has held this highest level of Priority Pass the longest, unless one of these applicants is an ELHA transfer applicant, in which case the home will be allocated to the transfer applicant first, regardless of the date of Priority Pass award.

### **5.2.4 Date Priority Pass Awarded**

Where there is more than one applicant with the same level of Priority Pass the home will be allocated to the applicant whose Priority Pass was awarded earliest.

### **5.2.5 Date of Registration**

The date of registration is the date the applicant was accepted onto These Homes. We consider the date of registration only if there are no applicants with a Priority Pass. The property is allocated to the applicant with the earliest date of registration unless one of the applicants is a transfer applicant, in which case the property will be allocated to the transfer applicant first.

### **5.2.6 Same Date of Registration or Priority Pass Award**

If the date of registration or award of Priority Pass is the same for two or more applicants, we will allocate the property to the applicant with the lower registration or Priority Pass number, since this means that they applied before the other applicant, but on the same day.

Our Management Committee delegates responsibility for the day-to-day operation of this Policy to our staff. Our staff will check the accuracy of the list produced by the These Homes software and confirm the allocation. All allocations will involve two members of staff.

## **5.3 Offers and Refusals**

We will contact the successful applicant by telephone on the closing date for applications wherever possible. Applicants who applied for homes on thesehomes.com will receive an email informing them that they were unsuccessful. Applicants applying by other means that have not been contacted within two days of the closing date should assume that they have been unsuccessful.

Any offer we make will be conditional upon the applicant's housing circumstances being confirmed, the applicant providing proof of residency, any evidence relating to the award of a Priority Pass being provided and, if appropriate, previous tenancy references being received. We will enclose a copy of our Scottish Secure Tenancy Agreement with our offer to the applicant being considered for the property.

## **Approved by Management Committee 26/05/22**

We will give the successful applicant three working days from the date of our conditional offer to confirm the date and time for a home visit or office interview if one is to be carried out (see home visits below). If the applicant does not contact us within three working days, and they have not previously indicated that they would not be available, for example telling us that they are on holiday or in hospital, then we will withdraw our conditional offer and move on to the next applicant.

### **5.3.1 Home Visits**

We will normally carry out home visits to all successful applicants living within a reasonable distance of our office when they will be asked to provide proof of residency and their housing history (so that we can take up references). If they cannot supply us with this information, we will move on to the next applicant.

For those who have used a Priority Pass to secure their conditional offer, we will also check the information provided at registration. If the applicant has declared tenancy debt equivalent to more than one month's rent charge, we will also check that their re-payment arrangement is still being maintained.

If the applicant lives too far away for a home visit, we will telephone them to check the details provided, at registration or ask a housing provider in their area to carry out the home visit on our behalf. If a telephone interview is carried out the pre allocation interview form will be sent out to check and agree before an offer is made.

### **5.3.2 Offer**

We will send out an offer only after we have completed our required checks such as residency and, if appropriate, Priority Pass information and tenancy references. If the home is ready to let, our offer letter will suggest dates for the applicant to view the property and to sign their tenancy agreement. If the property is not ready, these dates will be arranged over the telephone when it is. The letter will also provide information and advice about rent and Housing Benefit / Universal Credit and inform the applicant what will happen if they refuse the offer. Again, the applicant must respond within three working days or the offer will normally be withdrawn.

If we withdraw an offer, or if the successful applicant refuses the offer, then we will contact the second qualifying applicant and follow the steps outlined above until the property is successfully allocated.

Where a successful applicant has used a Platinum Priority Pass and refuses an offer, we will notify East Lothian Council's Homeless Department and follow the process set out in the Nomination / Section 5 Protocol Agreement.

If an applicant has used a Priority Pass to apply for a property and they refuse an offer, then unless there are exceptional circumstances, we will withdraw the Priority Pass for a period as detailed in Section 3.13 above. If a Priority Pass has not been used, there is no penalty for refusing an offer.

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### 6.0 Appeal and Complaints Process

All applicants have the right to appeal against any decision made concerning their registration, the assessment of their housing need, the decision to suspend an application or Priority Pass the withdrawal of a Priority Pass or the withdrawal of their registration or an offer of housing. Appeals and Complaints will be dealt with by staff at an appropriate level. Staff members who made the original decision or were involved at a previous stage of the process will not be involved in appeals and complaints.

#### 6.1 Stage 1

Appeals should be made in the first instance within two weeks of the disputed decision. We aim to acknowledge receipt of the appeal within two working days and to provide a full response within ten working days.

#### 6.2 Stage 2

If the applicant is not satisfied with the Stage 1 decision, or has additional information, they can appeal again. Stage 2 appeals should be submitted within two weeks of the Stage 1 decision. We will acknowledge receipt of the appeal within three working days and aim to provide a full response within 20 working days.

#### 6.3 Stage 3

If the applicant is not satisfied with the Stage 2 decision, their final appeal will be dealt with at Stage 2 of our Complaints Handling Procedure.

If the appeal or complaint is against a decision not to make an offer of housing, the property will **not** be held until the conclusion of the appeal and/or Complaints process. If the appeal or complaint is successful and the decision not to make the offer was due to an error or misunderstanding by us, the applicant will be offered the first available suitable property, and the allocation will be treated as a Management Allocation (see Section 5.0). If the appeal or complaint is successful because the applicant has provided information not previously available to us, this will be explained, and any penalties applied will be withdrawn.

We will tell applicants about their right to appeal or the next stage in the process in all decision letters.

### 7.0 Information and Advice

We meet the Scottish National Standards for Housing Information and Advice, developed by the Scottish Government. We will make sure that all our These Homes information is written in Plain English. We have a procedure for providing information in alternative formats for those who need it.



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All the information about how These Homes works is available on both [elha.com](http://elha.com) and [thesehomes.com](http://thesehomes.com). It will also be made available to applicants applying by other means. If requested, we will provide tailored advice to an applicant about their housing prospects and other housing options. Where appropriate, we will seek and make referrals to other sources of housing support and advice.

Whilst the numbers of people applying for each property advertised on These Homes will be available to applicants, more detailed information about our allocations will be available on [elha.com](http://elha.com).

### **8.0 Monitoring and Review**

Our Audit & Assurance Committee is responsible for monitoring the operation of this policy, and for bringing any concerns about its operation to the attention of our Management Committee.

Quarterly and annual performance reports are considered by our Audit & Assurance Committee, as well as reports on any allocations made in accordance with Section 1.6 or 1.7 of this policy. Our performance is also published on our Performance 365 microsite at [elha.com](http://elha.com).

The Director of Housing will ensure that this policy is reviewed by the Management Committee at least every five years.

# Approved by Management Committee 26/05/22

## Appendix 1

### 1.0 Non-Standard Allocations

We own several Shared Ownership, Workshop Homes, Garages, Garage Sites and other non-residential properties which are not allocated through These Homes. We also allocate some Low Cost Home Ownership properties on behalf of East Lothian Council:

#### 1.1 Shared Ownership

We have a small stock (less than 50) of Shared Ownership properties developed between 1990 and 1997.

If a Sharing Owner decides they want to sell their share in a property, they are responsible for ensuring the property is marketed. Unless we agree to join with the Sharing Owner in a sale on the open market, we will offer to advertise their home on These Homes but will simply provide a Shared Ownership application form to any applicants and refer them direct to the Sharing Owner to arrange viewing. Our Shared Ownership Policy gives more information about this.

#### 1.2 Workshop Homes

We own three workshop homes in Athelstaneford and Stenton. The allocation of these workshop homes is led by the business needs of the applicant and is carried out in partnership with the Economic Development Unit at East Lothian Council.

#### 1.3 Garages and Garage Sites

We have a small number of Garages and Garage Sites available for rent close to our housing in various locations throughout East Lothian.

When a garage becomes available, we will advertise it on elha.com, Facebook and in our Head Office window. Applications will be accepted on elha.com, in writing, or by phone.

Applications will be prioritised using the following criteria:

- First priority will be given to our tenants
- If no tenants apply, priority will be given to applicants living close to the garage
- Disabled applicants will be prioritised within the above two groups
- If there is more than one applicant with equal priority, the garage will be allocated to the person who applied first

Before confirming the offer of a garage, we will ask for appropriate information from the applicant to confirm their ability to pay. Garage sites will also be advertised and allocated in a similar way.

## **Approved by Management Committee 26/05/22**

### **1.4 Low Cost Home Ownership**

We allocate Low Cost Home Ownership properties in East Saltoun and Ormiston on behalf of East Lothian Council. The way we allocate these homes is governed by a separate agreement between us and East Lothian Council.

Our responsibility is to advertise a property that an owner wishes to sell and find an eligible purchaser, according to the set criteria, and we will normally advertise these properties for sale in the local press.

Appendix 2

Definition of Priority Passes

Need	Priority Level	You qualify if:
Homelessness and Harassment	Platinum	East Lothian Council have accepted a duty to rehouse you under homeless legislation
	Silver	You need to leave your home due to persistent serious harassment*
	Bronze	You are suffering from intermittent harassment, but do not need to leave your home*
Domestic Abuse	Gold	You or a family member are a victim of domestic abuse and you have to leave your home but do not wish to approach the local authority as homeless
Need to be in a Community	Bronze	<p>You need to move to:</p> <ul style="list-style-type: none"> <li>• Take up or sustain permanent employment in East Lothian and your accommodation is more than one hour travel from your place of work</li> <li>• To be closer to your children in East Lothian who you have access arrangements for, but access is very difficult or impossible due to location</li> <li>• To be closer to shops and amenities which you currently have difficulty accessing</li> <li>• Provide or receive support to/from a family member living in East Lothian</li> </ul>
	Silver	As above, but with the added requirement of moving to a rural location only**
Overcrowding / Under-Occupancy	Gold	<p>You need two or more extra bedrooms (overcrowding within the host family is disregarded), or</p> <p>You are an ELHA tenant and your home has two or more spare bedrooms</p>
	Silver	<p>You need one extra bedroom or you are a couple or have two children and sharing a single sized room (overcrowding within the host family is disregarded), or</p> <p>You are an ELHA tenant and your home has one spare bedroom</p>
	Bronze	You need an extra bedroom to allow residential access to children for at least 3 nights a week*

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<p>Unsuitable Housing</p>	<p>Gold</p>	<p>Your current accommodation is in significant breach of the Tolerable Standard, has severe disrepair or defects, for example, severe dampness, rainwater penetration or structural defects and the landlord is unable to arrange suitable repairs within a 6 month period due to issues out with the applicants/landlord's control. Proof will be sought for example, sight of a valid Statutory Work/Demolition Notice or Demolition Order which has been served on the owner by the Local Authority confirming the nature of the defect, or a report from a qualified person such as Surveyor, Architect or Environmental Health Officer</p> <p>or</p> <p>Your accommodation lacks one of the following:</p> <ul style="list-style-type: none"> <li>• A flushing toilet</li> <li>• An adequate water supply</li> <li>• A fixed bath or shower</li> </ul> <p>We may contact your landlord or carry out a house inspection to confirm the lack of amenities</p> <p>If you live in accommodation which is not a house or flat, for example a caravan, we will take into consideration how you came to be there (we will check whether you have intentionally worsened your circumstances - see Section 3.13) where the caravan is situated and if this is your permanent residential accommodation</p>
	<p>Bronze</p>	<p>Your current accommodation lacks one or more of the following basic amenities:</p> <ul style="list-style-type: none"> <li>• A wash hand basin</li> <li>• A hot and cold water supply at the bath / shower and wash hand basin</li> <li>• Satisfactory provision for natural and artificial lighting and ventilation</li> <li>• A whole house heating system</li> <li>• A kitchen area including a sink and somewhere suitable for someone to instal their own cooker</li> <li>• Satisfactory thermal insulation</li> <li>• An electric supply that meets safety regulations</li> <li>• Satisfactory access to all external doors and outbuildings</li> </ul>

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		<p>If you lack at least three of these basic amenities we will upgrade you to Gold level.</p> <p>We may contact your landlord or carry out a house inspection to confirm the lack of amenities</p>
Medical	Gold	<p>You (or household member) have a severe medical condition which is made worse by your current accommodation and would be markedly improved by re-housing, or</p> <p>Re-housing is essential to allow discharge from hospital or to prevent admission to a nursing or residential home, and it is not practical to adapt your home to meet your needs, or</p> <p>Without re-housing the essential activities of daily life such as bathing, cooking and going out etc. are not possible, or</p> <p>You are an ELHA tenant (or household member) who requires a medical adaptation and we have not agreed to this work</p>
	Silver	<p>You (or household member) have a medical condition which would be markedly improved by re-housing, or</p> <p>Re-housing would substantially reduce the risk of physical injury, or</p> <p>Your present home makes essential activities of daily living difficult, and it is not practical to adapt your home. Verification from a health professional will be required</p> <p>Limits may be set by us for these Priority Passes, e.g. if a Pass is awarded due to difficulty managing stairs the Pass will be limited to ground floor accommodation</p>
First Affordable Home	Bronze	<p>You (and your partner) have a total annual income of under £30,000 and have little or no access to the local housing market. You have not held a social housing tenancy before, and you are living with your parents</p>
Transfer	Gold Plus	<p>You are an ELHA tenant, you qualify for any form of Priority Pass and</p> <ul style="list-style-type: none"> <li>• Have a clear rent account</li> </ul>

## Approved by Management Committee 26/05/22

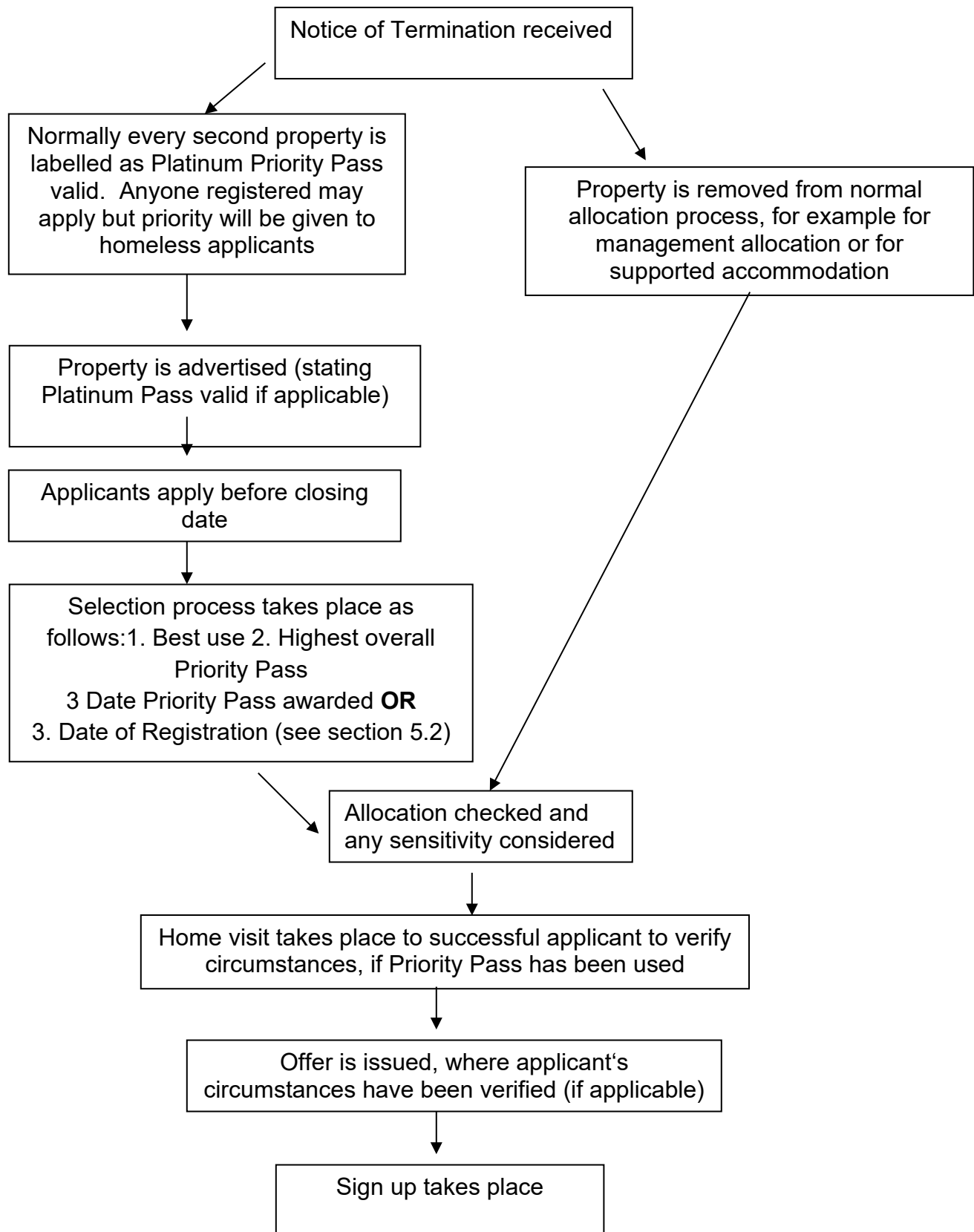
		<ul style="list-style-type: none"><li>• Maintain your home to a good standard</li><li>• Have no history of neighbour problems or antisocial behaviour</li></ul>
	Bronze	You are an ELHA tenant and have been living in a flat for more than two years

\* The level of pass awarded to applicants depends on the evidence provided during the pass application process.

\*\* Rural locations: Athelstaneford, Dirleton, East Linton, East Saltoun, Elphinstone, Garvald, Gifford, Innerwick, Ormiston, Pencaitland and Stenton

Appendix 3

**OVERVIEW OF THE ALLOCATION PROCESS**





### Appendix 4

#### 1.0 Suspended Applications

When we suspend an application, we will tell the applicant that they have been put on hold and explain why. We will also tell the applicant what, if anything, they need to do to have the hold status removed.

Where we need to take action, such as make further enquiries, we will make sure that this is done as quickly as possible and that, if required, follow up action is taken immediately.

We will regularly review held registrations in order to minimise the time any applicant is unable to apply for available properties.

We may suspend applications in the following circumstances:

#### 1.1 Change of Circumstances

If the applicant buys a property or moves to a secure tenancy, we will suspend the application until we establish whether they wish to remain on the Housing Register.

#### 1.2 Awaiting Information

If we need more information to assess an application, we will suspend the application until we receive the information. We will make sure that requests for information are regularly followed up so that the time the application is suspended is kept to a minimum.

#### 1.3 Rental, Service Charge or Chargeable Repairs Debts

Where the applicant has current or previous rental, service charge, chargeable repairs, legal expenses or any other tenancy debt amounting to more than one month's rent, they must have made an arrangement for re-payment and maintained payments for at least three months.

If no arrangement has been made, we will tell the applicant that their registration will be suspended until this requirement has been met.

It is the applicant's responsibility to ensure that the re-payment arrangement is kept, to inform us when the arrangement has been kept for three months and to let us know if the arrangement is broken. We will check that any re-payment arrangement continues to be maintained before confirming any offer of housing.

Debts older than five years, which have not previously been pursued by the former landlord, or where the debt was not the responsibility of the applicant as a tenant, will be disregarded.

## **Approved by Management Committee 26/05/22**

### **1.4 Anti-social behaviour**

Where there is clear evidence of anti-social behaviour in a current or previous tenancy, we will suspend the application until we have fully investigated the circumstances. If we are satisfied that an applicant's circumstances or conduct has significantly changed, the suspension will be lifted.

In considering whether to suspend an application for antisocial behaviour, we will take account of the nature of the behaviour (for example, threats or harassment, fire raising, relevant criminal convictions) and:

- The nature, frequency and duration of the behaviour
- The extent to which the behaviour was the responsibility of people other than the applicant
- The effect the conduct had/is having on other people
- What the applicant has done to address the situation
- The applicant's ability to maintain a tenancy, either with or without support

### **1.5 Providing False Information or Omitting Relevant Information**

Where we consider that an applicant has knowingly or carelessly given false information or withheld information that would have a bearing on their application, we will suspend the application for a period of twelve months.

### **1.6 Support Issues**

If an applicant states that they need support to maintain a tenancy or appears unlikely to be able to maintain an independent tenancy without support, the application will be suspended for as long as it takes us to confirm that an appropriate support package has been identified and confirmed to be available to the applicant.

### **1.7 Applicant not able to Take up a Tenancy**

If an applicant is unable to take up a tenancy, for example, because they are in hospital, prison or haven't yet left the armed forces, we will suspend their application until they are able to move.

### **1.8 Aggressive or threatening behaviour**

If an applicant is aggressive or threatening towards a member of our staff or Management Committee, we will suspend their application for a minimum of twelve months. In all such cases we will work with the applicant, by letter if necessary, towards a mutual understanding of their expected behaviour and attitude.

**1.9 Condition of Property (Transfers only)**

Where a transfer applicant must bring the condition of the property up to a satisfactory standard (where it relates to a breach of their tenancy agreement) they will be suspended until the work has been completed to our satisfaction (see section 3.11).

### Appendix 5

#### 1.0 Lettings Plans

We assess all applications in accordance with this Policy but, sometimes, we will adopt a Lettings Plan for a specific geographical area or neighbourhood or type of property. Where we do this, this will be clearly stated in the advert. Lettings Plans will always be intended to create or promote sustainable, stable, and balanced communities. We may adopt a Lettings Plan in situations such as:

- Where we need to prioritise applications for an area that is in high demand
- Where we are trying to promote demand in an area where there are empty properties
- Where we are seeking to stabilise a community that has been affected by incidents of antisocial behaviour
- Where we are trying to promote local employment by providing accommodation for incoming or key workers
- Where we want to ensure a mix of family size, e.g. in new developments or areas with limited children's play areas
- In accordance with East Lothian Council's Housing Strategy

All Lettings Plans will be time limited, and their effectiveness will be regularly monitored. However, given the nature and location of several of our developments, the Management Committee approved the decision to make the following Lettings Plans permanent:

- Sheltered Housing - Osborne Court, Cockenzie

Osborne Court is a sheltered housing scheme with 16 properties, including eight upper flats. Given the age of the tenants who are housed in this development (over 60s) their needs can change, and some find it increasingly difficult to climb the stairs. This generally means that an upper flat can become unsuitable and the tenant needs a transfer to ground floor accommodation.

If a ground floor property in this development becomes available, we will offer it to any first-floor residents at Osborne Court who require ground floor accommodation, without advertising the actual vacancy. If such a transfer is accepted, the resulting first floor vacancy is advertised as normal. It is possible that the need for such a transfer is not known about before a ground floor flat is advertised and that this only comes to light once the property has been made available through These Homes.

## **Approved by Management Committee 26/05/22**

If this happens then we will offer the ground floor flat to our tenant and the resulting vacant upper flat to the first suitable applicant on the list. Managing stock this way ultimately meets the needs of two applicants and potentially reduces the needs for medical adaptations

- The Granary & Hardgate Court – Haddington,

These flats are situated adjacent to a main road and a communal car park. Given the number of health and safety concerns arising from a lack of storage space, children playing in the carpark and the location of the main road, it was agreed that a sensitive approach to allocations should be taken to letting all future vacancies in these blocks with priority being given to families with children aged 12 years or older.

**Appendix 6**

**NOMINATIONS AND HOMELESSNESS DUTIES INCLUDING SECTION 5 HOUSING  
(SCOTLAND) ACT 2001**

**PROTOCOL AGREEMENT**

**1. INTRODUCTION**

The purpose of this protocol agreement between East Lothian Council and East Lothian Housing Association is to specify the arrangements for the nomination of re-housing applicants **AND** referrals under Section 5 of the Housing (Scotland) Act 2001.

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

**2. PRINCIPLES**

East Lothian Council and East Lothian Housing Association aim to work together to:

- Address and assist in reducing homelessness in East Lothian
- Operate an effective, efficient and equitable nomination process, which minimises void losses, and disputes between the parties to the agreement
- Fulfil all relevant Statutory Duties

East Lothian Council and East Lothian Housing Association wish to promote equal access to housing and are committed to meeting legal responsibilities in respect of the Equality Act 2010 with regard to age, race, gender re-assignment, religion and belief, marriage and civil partnership, disability, pregnancy and maternity, sex and sexual orientation. All information provided in connection with nominations and Section 5 referrals will be treated as confidential by both organisations.

**3. SCOPE OF AGREEMENT**

The agreement covers all lettings on a permanent basis to self-contained rented accommodation within East Lothian by East Lothian Housing Association, with the exception of Workshop Homes.

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

## **Approved by Management Committee 26/05/22**

### **4. PUBLICITY**

East Lothian Council will provide information on Housing Associations to all homeless, housing and transfer applicants.

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

East Lothian Housing Association will advertise all available properties at its office, on its website, on the These Homes website and will provide information to appropriate Support Providers including the Council's Housing Options Team. East Lothian Council will provide a link from its website to the These Homes website.

### **5. LIAISON ARRANGEMENTS**

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

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

### **6. NOTIFICATION OF ALLOCATION RESULTS**

East Lothian Housing Association will notify East Lothian Council of all allocations within two working days of the successful applicant accepting the property.

### **7. INFORMATION SHARING**

Where appropriate, East Lothian Council shall share confidential information including that relating to the conduct of current or previous tenancies of nominated applicants, where this affects their re-housing application.

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

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

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

## **Approved by Management Committee 26/05/22**

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

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

### **9. NEW BUILD DEVELOPMENTS**

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

### **10. NOMINATIONS**

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

East Lothian Housing Association will advertise vacant properties on its website, on the These Homes website, as well as local housing offices and libraries etc. The adverts will run for ten days before the closing date.

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

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



### Failure of Nominations

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

### Withdrawal of Property for Nomination

In an emergency such as fire, flood or immediate re-housing required due e.g. to harassment, East Lothian Housing Association reserves the right to withdraw a nomination request or advertised property. In this event, the property will not count towards the 50% allocation to homeless applicants and a suitable property will be substituted when available.

## 11. REFUSAL OF NOMINATIONS

East Lothian Housing Association may reject East Lothian Council's nomination where:

- The nominee is not eligible for re-housing under the Association's These Homes (Allocations) policy because their registration is on hold as a result of the nominee providing false or misleading information in respect of his/her registration
- The nominee has current or previous outstanding rent arrears or rechargeable repair arrears in excess of one month's rent, and no agreed repayment arrangement has been maintained for a minimum of three months. This ground may be waived where the applicant is fleeing harassment as defined by the Housing (Scotland) Act 2001 and/or domestic violence
- The nominee caused serious management problems, which resulted in legal action being taken to end a tenancy or, in the case of hostel type accommodation, the applicant was asked to leave because of serious misconduct. In coming to a decision to reject a nomination on this ground, East Lothian Housing Association would look at the circumstances and elapse of time since the tenancy or accommodation ended
- The circumstances of the nominee have changed since the Council last assessed them, and the property in question is no longer suitable for their needs
- The Association is concerned that the household contains a person who may not be able to cope with living in the property without additional care or support, which either the household is unwilling to accept, or which cannot be arranged

## **Approved by Management Committee 26/05/22**

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

### **12. SECTION 5 REFERRALS**

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

The Association sends a flyer to East Lothian Council each week properties are advertised.. East Lothian Council will respond by email on the same day, or within one working day, if they wish to make a Section 5 referral to a vacant property. If East Lothian Council makes a Section 5 referral the property will be withdrawn from advertisement and will count towards the priority homeless quota except in exceptional circumstances.

The Council will, with the applicant's written consent, provide relevant information concerning the applicant's housing history and any other matters that it would be reasonable for a prospective landlord to take into consideration, particularly any specific requirements and/or support needs. Where the applicant has not granted permission for such information to be provided, East Lothian Housing Association will be informed of the refusal.

The Council will also provide any other information of which East Lothian Housing Association should be aware in an attempt to ensure that the tenancy can be sustained and any potential issues relating to the health and welfare of the applicant or existing residents can be taken into consideration and properly assessed.

It is agreed that both parties can enter into informal discussion concerning an individual household/person prior to the initiation of the formal referral process. Such discussion will not bind the Council to agreeing to any refusal by East Lothian Housing Association to comply with any subsequent formal request for accommodation for the household concerned.

East Lothian Council will make a formal referral by email using the Section 5 Referral Form.

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

Prior to formally responding, East Lothian Housing Association will notify the Council of any reason for not wishing to comply that was not apparent from earlier discussions and/or falls out-with those specified in the guidance to the legislation. It will be for the Council to decide whether or not to proceed with the request to re-house.

## **Approved by Management Committee 26/05/22**

The Association will give its formal response within 5 working days of receipt of the referral. Prior to responding, the Association may contact the Homelessness Officer for further information or to provide new information. Such information may result in extending the time for the Association to carry out its part of the procedure.

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

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

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

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

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

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

East Lothian Housing Association will reject East Lothian Council's section 5 referral where:

- The person concerned has current or previous outstanding rent arrears or rechargeable repair arrears in excess of one month's rent, and no agreed repayment arrangement has been maintained for a minimum of three months. This ground may be waived where the applicant is fleeing harassment as defined by the Housing(Scotland) Act 2001 and/or domestic violence
- The person concerned caused serious management problems, which resulted in legal action being taken or, in the case of hostel type accommodation, the applicant was asked to leave because of serious misconduct. In coming to a decision to reject a referral on this ground, East Lothian Housing Association would look at the circumstances and elapse of time since the tenancy or accommodation ended
- The circumstances of the person have changed since the Council last assessed them, and the property in question is no longer suitable for their needs

## **Approved by Management Committee 26/05/22**

- The Association is concerned that the household contains a person who may not be able to cope with living in the property without additional care or support, which either the household is unwilling to accept, or which cannot be arranged

In these cases, the Association will first contact East Lothian Council to see whether differences can be reconciled, or solutions found. Where agreement cannot be reached, the arbitration process outlined in section 15 will be implemented.

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

East Lothian Housing Association may offer available properties to homeless applicants who have either applied direct through These Homes, been nominated by East Lothian Council or been referred by East Lothian Council under section 5 of the Housing (Scotland) Act 2001.

Under East Lothian Council policy, homeless applicants are entitled to one reasonable offer of accommodation. If a homeless applicant is offered a property by the Housing Association and refuses the offer, East Lothian Housing Association will advise the applicant to contact the Council and notify East Lothian Council of the refusal and the reasons by email or telephone on the day of the applicant's refusal.

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

### **15. DISPUTES AND ARBITRATION**

Both parties will, in the first instance, attempt to resolve any dispute arising from the operation of this agreement by informal discussion in order to avoid the need for arbitration. At the informal discussion stage, both parties will take cognisance of the Arbitration (Scotland) Act 2010 and associated Guidance on good reason for non-compliance with a request to re-house and to sections 11 and 13 of this agreement.

If the matter cannot be resolved informally, it will be referred to a Disputes Panel made up of representatives of East Lothian Council and East Lothian Housing Association. The Disputes Panel will be chaired by someone, independent or otherwise, agreed by both parties.

Throughout the course of any Formal Dispute the void property subject to the Dispute will remain unallocated until the outcome of the Dispute is known.

The Disputes Panel will meet and reach its decision within 7 working days of a Dispute being referred to it. The Panel will also decide how any financial losses incurred by either side are to be split.

## **Approved by Management Committee 26/05/22**

The decision of the Disputes Panel will be final and binding on both parties.

All Formal Disputes will be recorded in Housing Association Disputes Form copies of which will be provided to both parties.

In the event of the Disputes Panel being unable to reach agreement on the outcome of a Dispute, both parties will, as a last resort, consider using the arbitration process outlined by the Scottish Housing Regulator.

### **16. MONITORING NOMINATIONS AND REFERRALS**

The Association will, notify the Housing Options Team of the outcome of referrals and nominations within two working days.

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

On a quarterly basis the Association will forward to the Council a summary of:

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

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

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

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

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

**Approved by Management Committee 26/05/22**

**17. SIGNATURES**

Signed on behalf of East Lothian Housing Association

Signature..... Name.....

Title..... Date.....

Witnessed by

Signature..... Name.....

Address..... Date.....

Signed on behalf of East Lothian Council

Signature..... Name.....

Title..... Date.....

Witnessed by

Signature..... Name.....

Address..... Date.....