

# Allocations Suspension Policy

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## **1. Introduction/Purpose**

- 1.1 The purpose of this Policy is to set out our approach to dealing with suspending applications to the housing waiting list
- 1.2 A suspension is a period of time during which an applicant for housing or an existing tenant applying to move to another property will not be considered for an offer of housing.

## **2. Legal and Regulatory Framework**

- 2.1 Whilst this Policy sets out to explain Rosehill's approach to allocation suspensions it must do so in the context of legal and regulatory requirements. Therefore the following relevant legislation has been taken into account in the development of this Policy:

- Housing (Scotland) Act 1987 and (amended) Act 2001
- The Housing (Scotland) Act 2014
- Anti Social Behaviour (Scotland) Act 2004
- Equalities Act 2010
- General Data Protection Regulation 2018

## **3 The Scottish Social Housing Charter**

- 3.1 The Social Housing Charter came into effect in April 2012 and was reviewed in 2017. This sets the standards and outcomes that all social landlords should aim to achieve when performing their housing activities. The Charter replaces the Performance Standards and the outcomes relevant to this Policy are:

### Charter Outcome/Standard 1: Equalities

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.

### Charter Outcome/Standard 2: Communication

Social landlords manage their businesses so that:

- 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.

### Charter Outcome/Standard 3: Participation

Social landlords manage their businesses so that:

- tenants and other customers find it easy to participate in and influence their landlord's decisions at a level they feel comfortable with.

### Charter Outcome/Standards 7, 8 and 9: Housing Options

Social landlords work together to ensure that:

- people looking for housing get information that helps them make informed choices and decisions about the range of housing options available to them
- tenants and people on housing lists can review their housing options.

Social landlords ensure that:

- people at risk of losing their homes get advice on preventing homelessness

### Charter Outcome/Standard 10: Access to Social Housing

Social Landlords ensure that:

- 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.

- 3.2 Social landlords are responsible for meeting the standards and outcomes set out in the Charter. The Scottish Housing Regulator is responsible for monitoring, assessing and reporting on how well social landlords, individually and collectively, achieve the outcomes.

3.3 In line with the regulatory principles, the Regulator's approach to monitoring landlords' achievement of the outcomes and standards in the Charter will be based on the landlords' performance information and their own assessment of their performance. Therefore, for each year ending on 30th September, we will be expected to:

- Measure and assess our performance in progressing towards or achieving the Charter outcomes and standards
  - Provide the Regulator with some key performance information on our achievement of the outcomes and standards
- Report our performance to tenants and other service users who use our services.

#### 4. **Organisational Values**

##### ***Our Vision:***

"We will provide excellent quality affordable and efficient homes in neighbourhoods that are well managed and maintained; we will contribute to sustaining communities where people feel safe and want to live by providing housing and other services and working with our voluntary and statutory partners."

##### ***Our Values:***

Our Core Values are:

We Will

- Invest and Support

We will be

- Engaged and Responsive
- Accountable and Compliant
- Fair and Approachable
- Efficient and Responsible
- Excellent and Committed

## 5. Defining a Suspension

- 5.1 A suspension is a period of time during which an applicant for housing or an existing tenant applying to move to another property will not be considered for an offer of housing.

Applicants are not removed from the waiting list as it is a fundamental right under the Housing (Scotland) Act 1987 (“the 1987 Act”) that anyone over the age of 16 has the right to be placed on a housing list. They remain on the list but they will not be given any offer of housing during the period of the suspension.

- 5.2 The Housing (Scotland) Act 2014 Act introduces a new section 20B to the 1987 Act which allows a landlord, in certain circumstances, to require a new applicant to be on the waiting list for a minimum period from the date of application before they become eligible to receive an offer of housing. During this period the applicant is still on the waiting list but will not receive an offer so they are suspended.

- 5.3 The 2014 Act sets out 7 situations where a s20B suspension can be made at the point of application. These are:

- the applicant has acted in an antisocial matter
- the applicant has certain previous convictions
- the applicant has had an order for recovery of possession on certain grounds made against them
- a previous tenancy has been terminated on the grounds of abandonment or neglect of the property
- there are or were certain outstanding debts relating to a previous tenancy
- the applicant made a false statement in an application to a housing list
- the applicant has refused one or more previous offers

- 5.4 Rosehill will apply this policy to all applicants to the waiting list. If an applicant is found after the point of application to fit any of the criteria below then the applicant may be suspended from the waiting list. Wherever possible the information will be sought at the point of application to allow the applicant time to rectify the problem and to manage applicant expectations. Rosehill does not operate a blanket

suspensions policy and an applicant's personal circumstances will be taken into consideration when applying the suspensions policy.

## 6. Suspension Reasons:

### 6.1 Suspension for Anti-social Behaviour

A definition of anti-social behaviour can be found in Rosehill's Anti-social behaviour policy. Under the s20B there are 3 circumstances in which a person can be suspended for antisocial behaviour which are :-

- The applicant or a member of their household have acted in an antisocial matter towards another person who was residing in, visiting or otherwise engaged in lawful activity in the locality of a house occupied by them. So if someone is at their own property and is subject to antisocial behaviour then the person acting in an antisocial manner could end up suspended from receiving any offers while on a waiting list.
- The second antisocial behaviour ground for potential suspension is that the applicant or a member of their household, has pursued a course of conduct amounting to harassment of such other person, or a course of conduct which is otherwise antisocial conduct in relation to such other person. For this ground a course of conduct is required rather than just one incident. So there must be at least two occasions of behaviour for it to amount to a course of conduct. The definitions in the Act also set out that conduct includes speech as well as actions and therefore what an applicant says can be taken into account and could in itself lead to a suspension if it falls under the antisocial behaviour definition of *causing or likely to cause alarm, distress, nuisance or annoyance*.
- The final antisocial behaviour ground for suspension specifically relates to behaviour towards employees of social landlords and makes it clear that any antisocial behaviour or a course of conduct amounting to antisocial behaviour by an applicant towards an employee could lead to a suspension.

## 6.2 Suspensions for Criminal Convictions

An applicant for housing can be suspended from the waiting list for certain previous convictions. A suspension may be considered if the applicant, or person the applicant resides with, has been convicted of –

- Using a house or allowing a house to be used for immoral or illegal purposes **or**
- An offence punishable by imprisonment which was committed in or in the locality of a house occupied by them

## 6.3 Suspension for Previous Eviction

Where the applicant has been subject of an order of recovery of a tenancy in England, Wales and Northern Ireland as well as Scotland. The possession order should have been granted under the following acts:

- The Housing (Northern Ireland) Order 1983
- The Housing Act 1985
- The Housing (Scotland) Act 1988
- The Housing (Scotland) Act 2001
- The Housing (Scotland) Act 2014

If any subsequent legislation is introduced this will also be taken into account for the purpose of this policy.

## 6.4 Suspension for Abandonment or Neglect

An applicant may be suspended if they have either solely or as part of a joint tenancy had the tenancy terminated for the following reasons:

### **Abandonment**

A previous tenancy of the applicant has been terminated by the landlord using the s18 abandonment notice procedure. The applicant's interest in a previous tenancy was terminated by the landlord using the s20 abandonment by a joint tenant notice procedure



### **Neglect**

A previous tenancy was terminated by the landlord on the basis of ground 3 (condition of property) or 4 (condition of furniture) of the 2001 Act.

### **6.5 Suspension for Rent Arrears or Other Debt (Current or Former)**

An application can be suspended where there is or was any outstanding liability for payment of rent or otherwise in relation to a house which is attributable to the applicant's tenancy of the house

#### **And**

The amount of the outstanding liability is more than 1/12 of the annual amount payable (ie more than one month's payment outstanding) or there is no appropriate repayment arrangement in place ie s20 (2A) of the 1987 Act is satisfied

Rosehill won't suspend an applicant if the debt is less than one month's payment (either rent or other charge) or if they have an agreed repayment arrangement which they have been paying for at least 3 months and are continuing to pay.

### **6.6 Suspension for Making a False Statement**

An application may be suspended where an applicant has knowingly or recklessly made a false statement in their application form. This only relates to statements made by the applicant and not any statements by other parties so a false statement made by someone who would be living with the applicant cannot be a basis for a suspension.

There are also 2 separate elements:–

Firstly there has to be false statement

Secondly the statement has to have been made knowingly or recklessly.

## 6.7 **Suspension for Refusing Previous Offers**

Rosehill will not automatically suspend an applicant for refusing offers, however repeatedly refusing offers of accommodation has an effect on our ability to meet our aim of keeping the length of time properties are empty to a minimum. Rosehill will look at a possible suspension after two unreasonable refusals.

## 7 **Evidence and Length of Suspension**

7.1 Robust evidence will be collected for all decisions to suspend. However there will be different time periods applied to each of the suspension reasons as follows:

### 7.2 **Suspension for Anti-social Behaviour**

As the definition of antisocial behaviour for suspension is the same as for recovery of possession Rosehill will look for similar forms of evidence around :-

- The nature frequency and length of conduct
- The extent to which conduct is down to acts or omissions of other people rather than the applicant
- The impact of the behaviour on others

As for an eviction action, Rosehill would be looking for reliable sources of evidence to confirm each of these elements. This could include:-

- Statements from the alleged victim, neighbours or any other witnesses.
- supporting statements from third parties such as police, social work or others
- Statements from staff particularly in relation to the 3<sup>rd</sup> ground of abuse of staff.

A suspension for proven ASB will be for a period of 3 years. A review will take place annually to enable the applicant to provide evidence of a change in their behaviour. If an applicant can provide proof of running a tenancy in the correct manner without any breaches in that 12 month the decision to suspend may be reversed. A short Scottish Secure Tenancy may be considered for the first twelve months of any tenancy granted.

### **7.3 Suspensions for Criminal Convictions**

Rosehill may suspend an application where the applicant or a member of the household, has unspent criminal convictions for the following:-

- Using a house or allowing a house to be used for immoral or illegal purposes **or**
- An offence punishable by imprisonment which was committed in or in the locality of a house occupied by them

Evidence to support the suspension will be sought from firstly the application form and secondly the Sheriff Court or Police Scotland.

Rosehill won't automatically suspend an applicant but will look at their ability to sustain a tenancy and the effect on the community should the applicant/household member re-offend.

The suspension will be for a period of 3 years but will be reviewed annually. Should the conviction become 'spent' within that time and there has been no subsequent reoffending the suspension will be automatically lifted. The onus will be on the applicant to notify Rosehill when the conviction becomes 'spent'.

The use of a Scottish Short Tenancy may be considered instead of or after a suspension.

### **7.4 Suspension for Previous Eviction**

Rosehill may suspend an applicant where there has been an eviction order granted in any part of the UK under the legislation listed at 5.3. Evidence will be sought from the landlord concerned or through the Court Service.

The suspension will be for a period of 3 years and reviewed annually. Where the applicant can show that the behaviour has been resolved and there has been at least two years of a fully sustained tenancy the suspension may be lifted.

### **7.5 Suspension for Abandonment or Neglect**

Where a previous tenancy has been ended due to neglect or abandonment Rosehill may suspend an application. Rosehill will seek evidence of the behaviour from the applicant's previous landlord.

The suspension will be for a period of 3 years and reviewed annually. Where the applicant can show that the behaviour has been resolved and there has been at least two years of a fully sustained tenancy the suspension may be lifted.

### **7.6 Suspension for Rent Arrears or Other Debt (Current or Former)**

Rosehill may suspend an applicant where there is a history of non-payment of rent. This may be in a social or private tenancy. Rosehill will always look for any mitigating factors and try to work with the applicant to resolve the rent arrears and enter into a repayment plan with their landlord.

Rosehill will only suspend where there is over a month's rent arrears outstanding. If the applicant enters into a payment plan with the landlord and pays as requested for three months the suspension may be lifted. At the point of offer of accommodation the payment plan would need to still be adhered to or the offer may be withdrawn.

For applicants with severe debt problems a suitable referral will be made for assistance, should the applicant want this.

A suspension for rent arrears will be reviewed annually. If an applicant either clears the arrears or sustains a repayment plan for 3 months they must notify Rosehill to enable the suspension to be lifted.

### **7.7 Suspension for Making a False Statement**

Making a false statement on an application for housing could lead to a property being offered to a person who would not necessarily have qualified for it.

Rosehill will check all information on an application form and supporting documents for accuracy. If, for example, the applicant stated that they have never had previous rent arrears but enquiries with other landlords reveal a long history of non-payment and high arrears there has clearly been a false statement.

The second element is about the applicant's intention when they made the statement. If it is shown that it was a genuine error on the part of the applicant then the application won't be suspended, however if the applicant has made the false statement in order to gain advantage on the waiting list the application may be suspended.

On the first occasion of making a false statement the application may be suspended for 12 months. If an applicant subsequently makes a false statement on an application the suspension may be for 3 years.

## **7.8 Suspension for Refusing Previous Offers**

When an applicant refuses an offer a member of staff will work with the applicant to look at the reason for refusal and look at whether the reason is reasonable. If an applicant then refuses a subsequent offer the Housing Services Manager will look at the refusals and make a decision as to the reasonableness of both refusals. If it is found that both refusals are unreasonable the applicant may be suspended from the list for a period of 6 months.

If suspended the application will automatically be made live after the 6 month suspension.

## **8. Review Process**

The decision to suspend an applicant from the waiting list will be made by the Housing Officer and/or the Income Maximisation Officer. An applicant who is suspended from receiving offers on the waiting list has the right to request a review of the decision. Reviews will be conducted by the Housing Services Manager.

The applicant will be asked to attend a mutually convenient meeting. The Officer who made the decision to suspend will be asked to explain why the decision was reached and the supporting evidence available will be presented. The applicant will be asked to explain why they feel

they shouldn't be suspended and any mitigating factors they wish to have taken into account. The Housing Services Manager will make a decision within 10 working days and this decision will be notified to the applicant in writing.

The right to review is available for all cases of suspension whether made under section 20B of the Housing (Scotland) Act 2014 or not.

## **9. Section 20b Suspensions Right of Appeal to Sheriff Court**

There is a statutory right of appeal to the Sheriff Court for any suspension made under s20b. An applicant has 21 days from the date of the decision to apply for this. The 21 day period runs regardless of any internal review request and can run concurrently.

An Applicant who has been suspended using section 20b will be clearly notified of this in their decision letter and advised how to request the appeal.

## **10. Annual Review**

Rosehill will review all suspended applications annually. The applicant will be contacted around the anniversary of their suspension to clarify if they want to remain on the waiting list. If the applicant wishes to remain on the list a review of the suspension will take place. Rosehill will look at whether any of the factors leading to the suspension have changed. For example if the applicant is suspended for previous anti-social behaviour but has sustained a tenancy for two years without any action being taken for behaviour the suspension may be lifted.

Each applicant will be notified the outcome of the review in writing and the applicant will be able to request a review of the decision as per section 7 of this policy.

## **11. Tenant Participation**

- 11.1 We are a tenant focussed organisation which is reflected in our Tenant Participation Strategy. This key document clearly demonstrates that we are committed to involving tenants in all aspects of our work and ensuring that tenants are included, informed and consulted about decisions that have an impact on the way their homes are managed.

11.2 As part of this commitment we will involve our tenants in the development of our policies and seek feedback where appropriate. We will ensure that any significant changes to this Policy and other Policies which will affect our tenants and possible future tenants will be the subject of consultation.

## **12. Equality and Diversity**

12.1 We are committed to providing fair and equal treatment for all our staff and customers including tenants and will not discriminate against anyone on the grounds of race, colour, ethnic or national origin, language, religion, belief, age, gender, sexual orientation, marital status, family circumstances, employment status, physical ability and mental health. In implementing this policy we will positively endeavour to achieve fair outcomes for all.

12.2 We are committed to removing any barriers to communication. Therefore, if required, this Policy can be produced in another format e.g. Braille, large print, etc or another language.

## **13. Risk Management**

13.1 In all the key areas of our business we need to consider any risks which may arise. To this end we have in place a robust Risk Management Policy and from this flows our Risk Register. We have identified our Material Risks which are regularly monitored by our Management Team and Audit Sub-Committee.

13.2 To ensure we continue to manage the associated risks we will periodically review this Policy to ensure compliance with all legislative requirements and regulatory and best practice guidance.

## **14. Complaints Procedure**

14.1 We aim to get things right first time and provide a good quality service to our tenants. However, we acknowledge that things can go wrong and that some tenants may be unhappy with the service provided. We have a

Complaints Policy and procedure. The procedure can be used where there is dissatisfaction with this Policy or its operation. Our Complaints Policy is available in our office or online at [www.rosehillhousing.co.uk](http://www.rosehillhousing.co.uk).

The complaints process should not be confused with the appeal and review processes in place for suspensions. Staff will clarify with applicants whether they want to appeal a decision to suspend or complain about part of the process.

## **15. Data Protection**

- 15.1 On the 25<sup>th</sup> May 2018 the legislation governing data protection changed with the introduction of the General Data Protection Regulation (GDPR). Following the UK's exit from the EU, and the end of the transition period which followed, the GDPR formed part of the retained EU law and became the UK GDPR which together with the Data Protection Act 2018 constitute the UK's data protection legislation.
- 15.2 We hold a variety of Personal Data relating to individuals including tenants, waiting list applicants, factored owners, other service users, employees and Committee Members. Our Privacy Policy sets out the basis on which we can process and share such data with third parties, it also sets out how we will securely store individuals' data, whether electronically or in paper format. It also provides information on individuals' rights under GDPR including: to view personal data held about them by us; to request a restriction of processing of their data; the right to be forgotten and a right to object to us processing their data. In terms of the rights to be forgotten and to restrict or object to processing of Personal Data, any such requests will require to be considered on their own merits and legal advice will need to be obtained in some circumstances. We have the responsibility for accepting or refusing such requests and will do so in writing.
- 15.3 Under UK GDPR we are required to provide all customers whose Personal Data we hold with a Fair Processing Notice (also known as a Privacy Notice). The Notice sets out the Personal Data we process and the basis for doing so.
- 15.4 We will only keep and process Personal Data for the original purpose we gathered it for and we will not keep it for any longer than necessary. Attached to our Privacy Policy is a table of Retention Periods for Personal Data held and processed by us. We recognise that not all Personal Data can be processed and kept for the same period of time and this will vary depending on the individual circumstances of each person whose Personal Data we hold.



- 15.5 The Privacy Policy sets out what should happen in the event of a Data breach e.g. does the breach require reporting to the Information

Commissioner's Office and whether the individual affected should be notified. Timescales are set out for dealing with data breaches.

- 15.6 Full copies of our Privacy Policy are available upon request at our office or from our website [www.rosehillhousing.co.uk](http://www.rosehillhousing.co.uk)

## **16. Policy Review**

- 16.1 This Policy will be reviewed at least every three years or sooner to ensure it continues to reflect current thinking and practice and to comply with legislative requirements and regulatory guidance.

