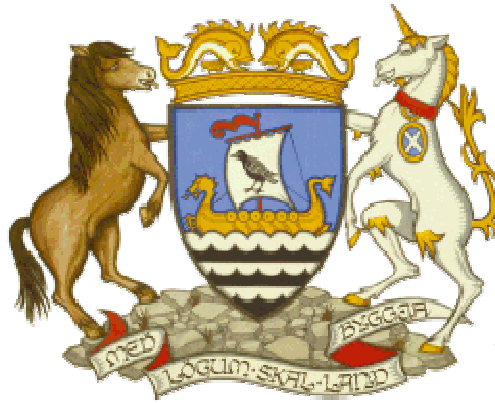


Operational Procedure 55

SHETLAND ISLANDS COUNCIL

Homeless Policy



Responsible Officer	Senior Housing Officer, Rod Keay						
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Amendment and Authorisation Record Homeless Policy

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Introduction

This policy sets out how Shetland Islands Council will meet its responsibilities to people who are homeless or threatened with homelessness in Shetland. Separate policy documents describe the Council's policies on temporary accommodation and the prevention of homelessness.

The policy incorporates the relevant aims and objectives set out within Shetland's 2011-2016 Local Housing Strategy. That strategy sets out the agreed priorities to help us work in partnership to improve the availability, accessibility and condition of housing across Shetland. The strategy has been developed in partnership through a multi-agency Housing Strategy Steering Group.

The Local Housing Strategy contributes to the key purpose of Shetland's Single Outcome Agreement 2010-11 of maintaining the economically active population. The Single Outcome Agreement national priority area and outcome for which the Housing Strategy Steering Group takes lead responsibility is:

Stronger (2) - We will ensure the right house is available in the right place at the right price.

The Local Housing Strategy is underpinned by an evidence base, through the Housing Need and Assessment and this is available online at www.shetland.gov.uk/hnda

Further information on the Local Housing Strategy is also available online at www.shetland.gov.uk/lhs.

This policy is supported by a set of written procedures on assessing homelessness and a comprehensive staff training programme, with a commitment to ensuring the Housing Service achieves accreditation to the "National Standards for Information & Advice".

Legal Framework

Part II of the Housing (Scotland) Act 1987 (as amended by the Housing (Scotland) Act 2001 and the Homelessness etc (Scotland) Act 2003) sets out the powers and duties of local authorities in dealing with applications from people seeking help on the grounds that they are homeless or threatened with homelessness.

Shetland Islands Council will ensure that this policy complies with current legislation, promotes good practice and has regard to the Code of Guidance on Homelessness. It also has regard to the Prevention of Homelessness Guidance, Guidance on Meeting the Best Interests of Children who are Homeless, and Guidance for local authorities on regulation 5 of the homeless persons (provision of non-permanent accommodation)(Scotland) regulations 2010.

The legislative framework to which this policy applies, include:

- [The Matrimonial Homes \(Family Protection\) \(Scotland\) Act 1981](#)
- [The Housing \(Scotland\) Act 1987](#)
- [The Children \(Scotland\) Act 1995](#)
- [The Housing \(Scotland\) Act 2001](#)
- [The Protection from Abuse \(Scotland\) Act 2001](#)
- [The Homeless Persons Advice and Assistance \(Scotland\) Regulations 2002](#)
- [The Homelessness etc \(Scotland\) Act 2003](#)
- [The Unsuitable Accommodation \(Scotland\) Order 2004](#)
- [Antisocial Behaviour \(Scotland\) Act 2004](#)
- [The Civil Partnership Act 2004](#)
- [The Family Law \(Scotland\) Act 2006](#)
- [Adults With Incapacity \(Scotland\) Act 2000](#)
- [Adult Support & Protection Act \(Scotland\) 2007](#)
- [The Housing \(Scotland\) Act 2010](#)

The Council's duty towards a homeless person is corporate in nature and not solely the responsibility of the Housing Service.

Shetland Islands Council will comply with all the requirements of the [Data Protection Act 1998](#). The Council will ensure that personal data is processed fairly and lawfully, that it is used for the purpose it was intended and that only relevant information is used. The Council will ensure that information held is accurate, and where necessary kept up to date and that appropriate measures are taken that prevent the unauthorised or unlawful use of any personal information given.

Principles and Objectives of the Homeless Policy

The overall aim of this policy is to prevent homelessness occurring whenever possible and, when it does occur, to ensure that we (the Housing Service) respond with effective and sensitive services that meet the needs of our applicants.

Principles

We will ensure our Homeless policy and procedures reflect the legal framework, comply with our statutory obligations and have regard to the [Code of Guidance on Homelessness](#).

We will be consistent in assessment and decision making.

We will comply with the [Equality Act 2010](#), which covers eight protected characteristics - age, disability, gender reassignment, pregnancy and maternity, race, religion and belief, sex and sexual orientation - and will not discriminate against service users.

We seek to have a policy that is capable of responding to a wide range of complex individual needs and circumstances.

We will be accountable in the way we operate the Homeless policy with regular performance monitoring and reviews. We will publicise the results of performance monitoring. Individual applicants' personal details will not be disclosed.

Objectives

We will adopt proactive approaches to preventing or resolving homelessness, and will aim to prevent homelessness occurring where possible.

We will provide good quality advice & information on the range of housing options available.

We will aim to identify needs for housing support and endeavour to provide the appropriate housing support to prevent homelessness and the reoccurrence of homelessness.

If homelessness cannot be prevented, we will aim to identify a housing solution that reflects housing and support needs and is in the best interest of any children or vulnerable adults within the household.

We will aim to provide solutions to homelessness that are sustainable in the longer term.

We will be aware of the safety and security of individual service users who are vulnerable.

Standards

We will be sensitive to service users' individual needs and circumstances, and ensure people are treated with dignity and respect.

We will deliver accessible front line services to our service users.

We will work effectively and jointly with other Council services and external partners and agencies.

We will provide opportunities for service users to have their views heard and taken into account.

We will follow the Customer Service Standards detailed in [OP46](#) at all times.

Staff Protocol

In order to avoid the appearance of impropriety, Housing staff should not be involved in any way in the homeless application process of, or the provision of advice and information to, a relative or close friend. For the avoidance of doubt, relative includes foster or step children, children of a partner, in laws, half sister or brother.

Housing staff are advised to bring any potential conflict of interest to the attention of their line manager immediately. The line manager will assign a different member of staff to carry out the homeless interview or provide advice. Further information about the Code of Conduct and Staff Protocol is detailed in [PGN15](#).

Access to Services

Homeless services in Shetland are provided by the Council's Housing Service, by a centralised team of Housing Officers from our offices in Lerwick. For those who cannot make it to the office, we will arrange to meet them at a convenient location.

Information and advice is provided by Housing Officers, Housing Outreach Workers and Housing Assistants. Housing Support is provided by the Housing Outreach Team.

Anyone presenting as homeless out with office hours can contact the emergency number, where a Social Worker will arrange temporary accommodation as required. Further information on the out of hours' procedures, is contained within the Out of Hours Information document.

Partnership Working

Homelessness services should be provided in partnership, and in a way which responds to the individual needs of each applicant. We will therefore assess the applicant household's needs in their entirety, and will work in partnership across services and with other agencies to meet those needs.

The defining characteristic of homeless people is that they need a home, and homeless people as such should not necessarily be regarded as a community care client group or in need of other types of support. However, it must be acknowledged that homeless people may require housing support services, social work support, health care, assistance in rebuilding social networks and accessing employment and training opportunities and a range of other support services.

With YOU, for YOU

[With YOU, for YOU](#) is the Council's new way of working together with people in the community who require support, and working in partnership across agencies to ensure we have a way of meeting needs.

With YOU, for YOU is an approach that focuses on the individual's goals and involves everyone working together to achieve the best possible outcome for the individual.

If an applicant thinks they need support with everyday life and are not already in receipt of support, their contact with us is the start of the assessment process. We will gather some basic details from the applicant, and will then either initiate an Understanding YOU assessment or contact the partner agency which seems to be the most appropriate to take the With YOU, for YOU process forward.

If Housing is the most appropriate agency, we will talk to the applicant to fill in a form called Understanding YOU. The officer completing the assessment will be the Coordinator for YOU. Within Housing, the Coordinator for YOU could be either a Housing Officer or a Housing Outreach Worker.

Understanding YOU involves taking a holistic view of an individual, identifying what is important to them, the difficulties they face, the strengths they have to draw on and how they manage around the clock.

We will share information with the applicant's consent, with the people who need to know, so they don't have to tell their story over and over again.

Other practitioners involved in supporting the person may be asked to contribute to the Understanding YOU form or to provide a specialist assessment for inclusion.

Once the holistic view is gathered, the goals and needs identified, an associated support plan is drawn up.

The plan will reflect the individual's eligibility for services. The plan will start within 3 weeks. We will work together with other agencies to support the applicant. The Coordinator for YOU will make sure the plan works.

If the applicant is already in receipt of support, then we will liaise with the allocated Coordinator for YOU and alert them to the situation, working with them to resolve the matter if necessary.

The With YOU, for YOU assessment can be started at any time during Housing's contact with an individual. For example, a homeless person may have appeared to have little or no support needs at first presentation. But, during time in a temporary

tenancy, it may become apparent that the individual does have some support needs. If it is apparent that an individual is struggling to maintain a tenancy or may benefit from support in relation to other aspects of their lives, contact should be made to offer the With YOU, for YOU process.

[Guidance](#) on the With YOU, for YOU process can be accessed here, along with Guidance Notes for Coordinators, [Eligibility Criteria](#) and the [Information Sharing Agreement](#). A blank With YOU, for YOU form can be accessed here.

Getting It Right for Every Child (GIRFEC)

Individuals who apply as homeless are treated as having a priority need if they have dependent children who reside with them or might reasonably be expected to reside with them. In providing temporary or permanent accommodation to such households, we must have regard to the best interests of the dependent children, and must ensure accommodation is suitable for occupation by children.

The responsibility for meeting the best interests of children facing homelessness does not rest solely with Housing Services, and should involve all relevant departments within the council, as well as partner agencies.

GIRFEC is a new approach that aims to improve outcomes for all children. It puts the wellbeing of children and young people at the centre. A common coordinated framework for assessment, planning and action across all agencies is used to address needs.

GIRFEC aims to build a network of support to promote wellbeing. This will help ensure children and young people get the right help at the right time. The network will always include family and/or carers, and the universal services. If this is insufficient then targeted and specialist help can be called upon.

Every child has a 'Named Person' who receives information on the child, and is aware of progress and problems.

The Named Person is:

The Midwife - pre birth and just after

The Health Visitor - until school age

Head Teacher, Depute Head, or Pupil support staff will normally carry out this role for school age children/young people

The named person keeps a record of progress and problems. Any significant events will be recorded on the Chronology form.

The [My World Triangle](#) demonstrates how Housing fits into the wider world of children and young people. In relation to housing and homelessness, it reinforces that we need to consider the impact a change in school, the loss of support networks or a sense of belonging to a community, could have on their wellbeing.

Children who are homeless or threatened with homelessness should be appropriately involved in discussions and decisions that affect them. We will adopt a flexible approach in considering the provision of accommodation and support to households with children.

If temporary accommodation is required it will meet the standards set out in The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2004.

Alongside concerns surrounding starting a new school, and possible bullying, children also worry about their toys and pets when moving. We recognise that these concerns may be significant for children and will take these considerations into account when making decisions.

We will minimise moves within temporary accommodation for all homeless households, but particularly for households containing children. Where moving is necessary, we will give full consideration as to how children will be affected and will involve them in the process insofar as possible.

If as a result of homelessness, changes to school or community cannot be avoided, or if we have concerns about the wellbeing of a child or young person, we will share this information with the named person, with the consent of the parent / carer.

We will make all possible investigations into the current situation of the children and make contact with the relevant service areas to pass on relevant information as well as discussing with other services how to achieve the best possible outcome in line with the guiding principles. We will ensure that any necessary contact has been established with relevant services and that any specific accommodation requirements are taken into consideration resulting from discussions on the child's subsequently identified needs. We will also take action to maintain or create stable living arrangements as soon as possible.

We will develop effective working protocols to allow for agreed operational practices to commence at as early a stage as possible once it has been identified that a family with children requires assistance to either prevent or alleviate a homelessness situation.

The same principles apply to securing permanent housing. We will seek a sustainable outcome, which for children is likely to focus around childcare and school. We will also take into account proximity to facilities which allow for hobbies or interests to be pursued, and to supportive friends and relatives.

We will consider all housing options, including the private rented sector, if this will better meet the needs of the family.

In relation to GIRFEC and the five questions, we will consider the following:

What is getting in the way of this child's well-being?

Is there an issue with the existing accommodation itself that can be addressed? Can any such issue be addressed in a way that provides a satisfactory outcome in terms of homelessness prevention? Is it an issue with the area that suggests a move to another area is essential to ensure well-being? Are there benefits or educational issues that require input from other professionals?

Do I have all the information I need to help this child?

Does the child's existing accommodation meet the standards set out in The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2004? Does this child have access to adequate living, sleeping and safe recreational/play facilities? What is the child's daily routine? Do they have the support required to ensure they comfortably and safely access school/nursery? Is this child subject to negative influences that render their current living arrangements unsuitable or dangerous? Can these influences be removed, whilst keeping the child in the same accommodation?

What can I do now to help this child?

Is an immediate response required to alleviate the presenting problem? Do I have the necessary knowledge and expertise to solve any immediate problem to ensure the child's safety? Do I require to refer to other professionals for input at this stage?

What can my agency do to help this child?

Does the existing accommodation meet the standards set out in The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2004? Is my service equipped to meet the needs of the child's well-being? What specific resources does the service have in place that can be implemented within an acceptable timescale to alleviate the problem? Does the situation require the input of more than one service area, for example, prevention advice, homelessness assessment, or temporary accommodation? Is suitable emergency or temporary accommodation readily available if required?

What additional help, if any, may be needed from others?

Am I concerned about any health issues that may require a nursing or GP referral? Is there an issue that is having a negative impact on the child's education and requires to be brought to the attention of education professionals? Is the child known to other services such as Social Work whom I should alert to this change in circumstances? Are there any issues that give me such concern as to this child's welfare that police involvement is required?

Child Protection

Where there are concerns that a child has been or may be subject to significant harm, the [Child Protection procedures](#) must be followed.

Handling of Applications

Avoidance of Screening

We will avoid the screening of applicants and ensure that no homeless applicant is refused the right to make a homeless application. Care will be taken to ensure we do not carry out any informal 'first screening' of applicants, either deliberately or unwittingly and that people are made aware of their legal right to apply. Screening is defined as preventing, deterring or discouraging applicants from making an application.

Initial Approaches

It is important that homeless applications are considered in the overall context of providing a service to those in housing need. We will adopt a person centred approach in order to deliver a response tailored to the needs of the individual applicant.

We will provide good quality objective housing advice on the range of housing options to all applicants, one of which might be accessing local authority or housing association accommodation via a homeless application.

In accordance with legislation any person aged 16 or over who wishes to make a homeless application has the right to do so. We will ensure that information about this is clearly visible in all offices where homeless people are likely to present and in other locations across Shetland.

If we believe that someone is homeless or threatened with homelessness we will carry out inquiries to ascertain the Council's duty to the household under the homelessness legislation.

We might identify, or be made aware of, homelessness or potential homelessness in a variety of ways. We need to be aware that the person approaching the housing service for accommodation or assistance may not always know of their rights to present as homeless, and may not express their homelessness explicitly as they may not even consider themselves to be homeless.

Detailed guidance on the procedures to be followed in relation to initial approaches is available in the Initial Approaches procedure.

Interviews

The duty Housing Officer will meet with every applicant who is homeless or potentially homeless. This will allow the opportunity for a full assessment to be carried out and also ensures an accurate record is kept of all presentations. Case papers and subsequent HL1 / HL2 returns will be made for each appointment.

All applicants should be seen the same day, except in exceptional circumstances where applicants who are 'roofless' should be seen the same day and all other cases within two working days. If a 'roofless' applicant cannot be seen the same day, accommodation should be arranged for them and an appointment should be made for them to see the duty Housing Officer the next working day.

Sufficient time should be allowed for each interview. The duty Housing Officer or another Housing Officer will normally carry out the interview. Under no circumstances should the interview be conducted in a public area. The interviewing officer should be aware of the stressful situation the applicant is in, and should take all reasonable steps to make the applicant feel at ease.

To ensure consistency, if the applicant has presented before, the applicant should be seen by the same Housing Officer where possible. If this is not possible, the new Housing Officer must read the previous application files and familiarise themselves with the applicant's housing history

Pre-Interview Checklist

Before the homeless interview begins, the duty Housing Officer should ensure the applicant has seen and understands their rights as detailed in the pre-interview checklist on the back of the initial contact form and in the homeless leaflet.

The duty Housing Officer will:

- Explain in clear and simple terms how the interview will be conducted, the types of questions that will be asked and why, what the applicant should expect in terms of the assessment process including likely time-scales, and of the decisions that can be taken on the application.
- Ensure that applicants are advised of Confidentiality and Child / Adult Protection issues [PGN16](#).
- Ensure the applicant understands the implications of giving false or misleading information before the interview begins and that s/he will be asked to sign the

declaration at the end of the interview. Applicants providing false or misleading information will be prosecuted in terms of the Housing (Scotland) Act 1987. In the event that a tenancy had been granted, legal action will be considered to repossess the property.

- Advise applicants that they can bring a friend, support worker, relative, Advocacy Shetland volunteer etc. to the interview.
- Provide the applicant with the Appeals leaflet ([OP39](#)), which provides details of their rights to request a review of any decisions made.
- Ask the applicant to sign the pre interview checklist and take a copy to be held on file to confirm that they have been advised of and have understood their rights.

Interpreters / Language Problems

All applicants should be advised that if they require the services of an interpreter or signer this would be arranged. In the event that such a service is required, staff should refer to [PGN23](#) on providing information in other languages and formats.

Homeless Interview

The duty Housing Officer will fully complete a homeless application form with all applicants applying for assistance under the Act with the information verbally provided by the applicant. This allows all necessary information to be collected.

If the applicant has a partner who normally resides with them, this person's details can be entered in the second applicant spaces, but this person is to be treated as a member of the applicant's household, rather than a second applicant in their own right.

All questions should be asked in a sensitive and sympathetic manner. If personal questions are to be asked then it is important that the duty Housing Officer explains the reason for this e.g. this may be relevant in order to determine priority need.

Although the application form currently asks for information on some of these issues relating to possible priority need, the applicant does not always answer them. Applicants should be advised of the importance of providing sufficient information to allow for a proper assessment of their needs and possible priority need status.

Applicants should be asked, where appropriate, whether they have any alcohol or drug related problems or previous involvement with the Social Work Department, the Criminal Justice Team or Substance Abuse Services. In order to identify any unmet need, and for statistical purposes this should always be recorded on the form, even if not relevant in relation to a priority need assessment.

Applicants should be reassured of their confidentiality and time should be allowed to enable the applicant to provide the information.

The applicant will have the opportunity to read the application form, or to have the information read back to them, to agree that it is a true record of their application before signing the declaration.

The duty Housing Officer will read out the declaration to applicants and confirmation will be sought from the applicant that they understand the declaration.

It is important that as much information as possible is obtained at the first interview to avoid the need for a second interview and to ensure a holistic approach is taken to assessing housing and any other needs.

However, if the applicant is distressed and unable to continue with the interview, the interview should be stopped and continued at another time.

Also, if the applicant does not have all the relevant information with him or her, again a second appointment should be made to continue the interview at another time.

The duty Housing Officer will:

- Provide a copy of the application form to the applicant if required, once the interview is complete.
- Give some indication of the likely length of time the application process will take and what inquiries will be made at each stage of the process.

Officers should make every effort to provide as much advice and assistance as possible. It should be remembered that, until all investigations are completed, it is not possible to make a determination. No verbal or written commitment should be given until the assessment is complete.

Preliminary Enquiries

The responsibility for making enquiries into an applicant's homelessness rests with the Council and the "burden" of securing information should not be left with the applicant.

The four criteria, which require to be assessed in sequence, are as follows;

- is the applicant homeless or threatened with homelessness
- is the applicant in priority need (to be phased out by April 2012)
- is the applicant homeless or threatened with homelessness "intentionally"

- does the applicant have a local connection

The duty Housing Officer should also check whether the applicant is a person subject to immigration control, and if so whether he or she is eligible for assistance under the homelessness legislation.

These criteria will be dealt with later in the policy but in the meantime it is important to note that the Council has different responsibilities depending on the determination made.

It is important to ensure temporary accommodation is available for the applicant pending investigations (see interim duty to accommodate). This applies even if the applicant may be intentionally homeless **or** have a connection with another Authority.

Prevention

Housing Officers should bear in mind throughout their inquiries that they should take action where appropriate to prevent homelessness occurring and to meet the broader needs of the applicant. Further information and guidance can be found in the Prevention of Homelessness Policy.

Inquiries into Homelessness

A legal definition of homelessness is attached at [Appendix A](#).

Throughout our inquiries, we will endeavour to take action to prevent homelessness from occurring and to meet the broader needs of the applicant.

An applicant is threatened with homelessness if it is likely that s/he will become homeless within 2 months.

An applicant is also homeless if s/he has accommodation but it is unreasonable for them to continue to occupy it. What may be reasonable for one applicant may not necessarily be reasonable for another. In reaching a decision on reasonableness, each application will be considered on a case by case basis.

Investigating homelessness

Detailed guidance on the investigations to be carried out in relation to different reasons for homelessness is contained in the Investigating Homelessness procedure.

Information provided will be confirmed and shared with our partners as appropriate with the express permission of the applicant.

Decision

Applicant is Homeless

In this instance the duty Housing Officer should ensure that the applicant is provided with temporary accommodation pending completion of the homeless investigation under our interim duty to provide accommodation, or temporary accommodation if the homeless investigation is complete.

Applicant is threatened With Homelessness

Such applicants should be provided with the appropriate advice and assistance straight away. This should enable the applicant to either prevent the homelessness occurring, with support from the Housing Officer if required or to move into alternative accommodation, thus minimising the need for a stay in temporary accommodation.

The Duty Housing Officer should complete a housing application form on behalf of the applicant and ensure that this is processed as a high priority.

The Housing Officer should also maintain weekly or fortnightly contact with the applicant to continue to provide advice and assistance and to confirm what actions the applicant has taken to try and either prevent homelessness occurring or to find alternative accommodation. This contact can be by phone if office or home appointments are not

suitable. Records of actions taken by both the applicant and the housing officer should be maintained.

If homelessness cannot be prevented, and the applicant subsequently becomes homeless, the original decision should be reviewed by the Housing Officer.

Applicant Not Homeless

If an applicant is found to be not homeless or not threatened with homelessness, no further responsibilities arise under the Act. However it is clear that the applicant has a serious concern with regard to their accommodation status prompting them to make a homeless application.

For this reason it is best practice to provide the applicant with as much advice and assistance as possible in order to assist them to resolve their problem. This could include referring the applicant to the Housing Options Guide, carrying out a Housing Options interview and drafting a personal housing plan, completing a housing application or a With You for You assessment or making referrals to other services or agencies as detailed on the homeless application form.

Inquiries into Priority Need

A legal definition of priority need is attached at [Appendix B](#).

In addition to this definition, the Council is working toward the abolition of priority need by 2012. As such, proactive measures have been agreed to extend priority need within Shetland. These categories will be phased in as follows:

From 1st April 2010, points 1(f), 1(g) and 1A(a) in Appendix B have been deleted and replaced with 'a person aged 16 to 25'.

From 1st April 2011, point 1(c) in Appendix B will be amended to a person who: -

- a) is aged 50 or older;
- b) has a mental illness;
- c) has a personality disorder;
- d) has a learning disability;
- e) has a physical disability;
- f) has chronic ill health;
- g) has suffered a miscarriage or undergone an abortion;
- h) has been discharged from a hospital, a prison or any part of the regular armed forces of the Crown; or
- i) is vulnerable for any other special reason

This amendment will remove the requirement to determine if a person *is vulnerable* as a result of any of the points above. Any homeless person that falls into any of the categories above will be deemed to have a priority need.

For clarity regarding point (i) above a person is considered vulnerable when they are less able to fend for themselves so that they may suffer in a situation where another homeless person would be able to cope without suffering. This could include a person with an addiction or substance misuse problem.

At the 1st April 2012, it is proposed that the priority need assessment will be abolished. However, an assessment of the applicant's circumstances will still be relevant in all cases, in relation to support needs, referrals and risk assessments.

Investigating Priority Need

Detailed guidance on the investigations to be carried out in relation to priority need is contained in the Investigating Priority Need procedure.

Homelessness and priority need should be holistically assessed, and take into account the applicant's housing history. A history of repeat homelessness could suggest a level of vulnerability which should be taken into account.

Information provided will be confirmed and shared with our partners as appropriate with the express permission of the applicant.

Decision

Applicant in Priority Need

In this instance the duty Housing Officer should ensure that the applicant is provided with temporary accommodation, if required, under the Council's interim duty to accommodate, pending completion of the homeless investigation, or temporary accommodation if the homeless investigation is complete.

The Housing Officer should also ensure any requested or appropriate referrals are made for the applicant within 5 working days.

Housing Outreach Referral

It is often easier for applicants to address other issues, once their homelessness has been resolved. The Housing Officer will, with the consent of the applicant, refer all applicants who have been assessed as having a priority need, and who have not had contact with Housing Outreach Duty already to Housing Outreach for an assessment of housing support need or an Understanding YOU assessment as appropriate.

Applicant Not in Priority Need

If the applicant is found to be homeless but not in priority need, they have a right to be provided with temporary accommodation and [advice and assistance](#).

Temporary accommodation must be provided for such a period as would give homeless households a reasonable opportunity to find accommodation themselves. The advice and assistance provided must be of a nature to secure this aim.

The Housing Officer will assess "Reasonable Opportunity" in terms of the applicant's circumstances, including consideration of factors such as disability, addiction, mental health problems and chaotic lifestyle which may adversely affect their ability to secure accommodation. Consideration will be given also to local housing conditions including how readily available alternative accommodation is in the area.

The Housing Officer should retain a written record of all the advice provided, which should be copied to the applicant. This information should also be entered on Orchard.

In practice most applicants should be provided with temporary accommodation for an initial period of 2 months. The applicant must be notified in writing of this timescale. After 2 months the need for temporary accommodation for a further period should be re-assessed, in consultation with the Estate Manager. If temporary accommodation is to be provided for a further period, the applicant must be notified in writing of this revised timescale.

Advice and assistance should be available to the applicant on a regular basis during this period. Applicants should be recording actions that they take to secure alternative accommodation. It is expected that the named Housing Officer will meet with the applicant at least once every fortnight during this period to review actions taken and to provide further advice and assistance as required.

Although the applicant will not be entitled to permanent accommodation under the Homelessness legislation, consideration should be given to whether the applicant can be accommodated under the normal waiting list. The applicant should complete a housing application form as soon as possible.

Inquiries into Intentionality

A legal definition of intentionality is attached at [Appendix C](#).

Investigating Intentionality

Detailed guidance on the investigations to be carried out in relation to intentionality can be found in the Investigating Intentionality procedure.

In making a decision on intentionality, the council will consider all relevant circumstances.

Information provided will be confirmed and shared with our partners as appropriate with the express permission of the applicant.

Decision

Applicant Unintentionally Homeless

If accommodation has not already been provided the duty Housing Officer should ensure that the applicant is provided with temporary accommodation under the Council's interim duty to accommodate pending completion of the homeless investigation, or temporary accommodation if the homeless investigation is complete.

The Housing Officer should also ensure any requested or appropriate referrals are made for the applicant within 5 working days.

Applicant Intentionally Homeless

If the applicant is found to be intentionally homeless, they have a right to be provided with temporary accommodation and advice and assistance.

The Housing Officer will consider if the Council has duties under any other legislation, for example the Children (Scotland) Act 1995. If the applicant has dependent children, the Housing Officer will determine if a GIRFEC plan already exists or if one needs to be started for the child(ren) in the household. The Housing Officer can also contact the Children and Families team concerning any possible duties towards a child in need.

Temporary accommodation must be provided for such a period as would give homeless households a reasonable opportunity to find accommodation themselves. The advice and assistance provided must be of a nature to secure this aim.

The Housing Officer will assess “Reasonable Opportunity” in terms of the applicant’s circumstances, including consideration of factors such as disability, addiction, mental health problems and chaotic lifestyle which may adversely affect their ability to secure accommodation. Consideration will be given also to local housing conditions including how readily available alternative accommodation is in the area.

The Housing Officer should retain a written record of all the advice provided, which should be copied to the applicant. This information should also be entered on Orchard.

In practice most applicants should be provided with temporary accommodation for an initial period of 2 months. The applicant must be notified in writing of this timescale. After 2 months the need for temporary accommodation for a further period should be re-assessed, in consultation with the Estate Manager. If temporary accommodation is to be provided for a further period, the applicant must be notified in writing of this revised timescale.

Advice and assistance should be available to the applicant on a regular basis during this period. Applicants should be recording actions that they take to secure alternative accommodation. It is expected that the named Housing Officer will meet with the applicant at least once every fortnight during this period to review actions taken and to provide further advice and assistance as required.

Although the applicant will not be entitled to permanent accommodation under the Homelessness legislation, consideration should be given to whether the applicant can be accommodated under the normal waiting list. The applicant should complete a housing application form as soon as possible.

Inquiries into Local Connection

If the applicant is homeless, in priority need and not intentionally homeless then the Housing Officer can consider if the applicant has a local connection with Shetland.

A legal definition of local connection is attached at [Appendix D](#).

Investigating Local Connection

Detailed guidance on the investigations to be carried out in relation to local connection can be found in the Investigating Local Connection procedure.

Information provided will be confirmed and shared with our partners as appropriate with the express permission of the applicant.

Decision

Applicant has a local connection

If accommodation has not already been provided the Housing Officer should ensure that the applicant is provided with temporary accommodation.

The Housing Officer should also ensure any requested or appropriate referrals are made for the applicant within 5 working days.

Applicant does not have a local connection

An applicant with no local connection should only be referred *to another local authority* if s/he has a safe local connection elsewhere. The applicant should be provided with temporary accommodation while the referral to the other authority is being made.

Intentionally homeless applicants will not be referred back. They will be provided with temporary accommodation for a period to allow them a reasonable opportunity to secure their own accommodation and advice and assistance to help them secure this aim.

No safe connection elsewhere

If accommodation has not already been provided the Housing Officer should ensure that the applicant is provided with temporary accommodation.

The Housing Officer should also ensure any requested or appropriate referrals are made for the applicant as soon as possible.

The Housing Officer / Housing Outreach Worker should consider how to support the applicant building social networks in the community, to assist the applicant successfully sustain their tenancy and settle into their new area.

Safe connection elsewhere

The Housing Officer should refer to the Section 33 Referrals procedure for detailed guidance on the procedure for referrals to and from other local authorities.

Conclusion of Interview

The Housing Officer will

- check details with the applicant including any points/ responses that are unclear
- ensure that the applicant signs and dates the application form
- provide the applicant with a copy of the form if required
- provide the applicant with a verbal summary of the conclusion of the interview
- arrange for temporary accommodation, where required
- will make a referral/arrange an appointment with appropriate services, with the applicant's consent, if any unmet support needs have been identified
- arrange storage, if required, for the applicant's property
- arrange a follow up meeting within four weeks to discuss the decision

Notification and review of decisions

The Housing Officer will

- aim to have completed their enquiries and reached a decision within 28 days
- where the 28 day timescale cannot be met, inform the applicant in writing that enquiries have not yet been completed, with an indication as to when they are expected to be

The Housing Officer will

- notify the applicant in writing within one day of the decision being made
- ensure that the notification letter is translated into the relevant language where the applicant's first language is not English
- ensure notification of the Council's decision is provided in an appropriate format if the applicant is visually impaired
- if the applicant has known literacy problems (which should be ascertained during the initial interview) make an appointment to go through the decision letter or do this over the telephone and ensure the applicant receives a written copy

The decision letter should be posted to the applicant and a copy should be placed in a sealed envelope at reception to ensure it is available for collection by the applicant.

The envelope should be date stamped when it is placed at reception, and the date it should be returned to the application file (if it is not collected) should be noted on the envelope.

At any stage, but in particular once a decision has been made, all applicants should complete a housing application form, which will then be copied, with the applicant's permission, to Hjalmland Housing Association.

Ongoing Support

Housing Officers should arrange to contact and / or visit applicants every 8 – 10 weeks while they are living in temporary accommodation as a minimum. More frequent visits should be agreed with the applicant as required.

The rent account should be checked before this visit is carried out and if regular payments are not being made, this should be addressed with the applicant. It is much easier to prevent arrears building up if problems are dealt with at the earliest opportunity and a regular payment pattern is established.

Any breaches of tenancy should be discussed and referrals made for support if needed.

The applicant's housing options should be reviewed e.g. areas of choice, options to take up private rented accommodation, list position, need to apply for HHA advertised vacancies

The ongoing contact is an opportunity to build a positive relationship with the applicant, review support needs and make early referrals where additional housing or other support is needed, ensure the tenancy is being maintained and that any problems the tenant has with their temporary accommodation or neighbours can be addressed at an early stage.

Support Agencies & Referrals

Information and contact details for agencies and voluntary groups can be found in the Signposting Booklet 2010.

We are also currently developing the Housing intranet page, to include details of support agencies and referral forms.

Housing Support

The Housing (Scotland) Act 2010, will introduce a statutory requirement to assess and provide housing support services to any applicant who is unintentionally threatened with homelessness or unintentionally homeless and in priority need.

To meet this new duty, we will offer a same day duty appointment to any service user who is in need of Housing Support.

The Outreach Worker will check to see whether an existing With YOU For YOU, Understanding YOU has been done or whether there is an existing GIRFEC. Information from any existing assessment will be passed to the Housing Officer to assist the Housing Officer in their enquiries.

The role of the Outreach Worker would be to:

1. Provide information on the services available (providing the Housing Outreach Service Handbook to all customers)
2. To get a brief outline of any support needs, identify whether an existing Understanding YOU or GIRFEC is in place, and if not determine if one is required? If there is one already in place and the customer has given permission to share information contact should be made with the Co-ordinator For YOU or GIRFEC lead to explain the situation as this may affect the support already in place. (Not every customer applying as homeless/potentially homeless will want or need to go through the With YOU for YOU process). Arrange follow-up as appropriate to case.
3. Where there are immediate support needs identified e.g. family breakdown that may be averted / delayed by intervention / utilising other agencies skills, the Outreach Worker would be able to either directly provide support or get support from another agency.

The Duty Outreach Worker will be available to start the With YOU For YOU process for customers who are in contact with Housing Services and request support for issues that are not primarily a housing duty, e.g. a customer arriving at reception with a non-housing responsibility request such as requiring Home Care or Occupational Therapy.

Accommodation

Temporary Accommodation

The Council's policy on temporary accommodation is contained within a separate policy document, which can be accessed OP56.

Homeless Policy changes which take place while an applicant is in temporary accommodation, should lead to a review of their application and decision.

Permanent Accommodation

The Council has a duty to secure permanent accommodation for an applicant who is homeless, in priority need and not intentionally homeless (and where they are not referring to another local authority).

This permanent accommodation must:

- not be overcrowded
- not endanger health
- meet any special needs that the applicant or a member of his/her family
- be reasonable to occupy
- have regard to the best interests of any dependent children

It must also be:

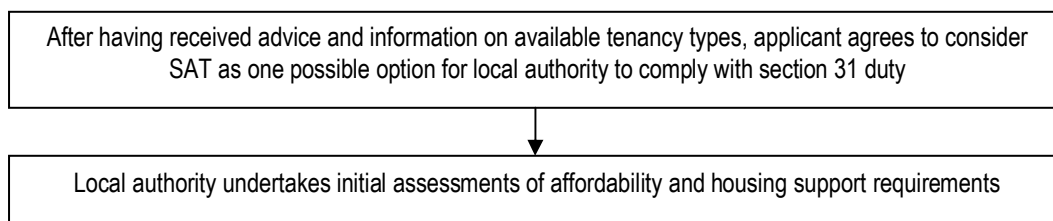
- a Scottish secure tenancy or
- a short SST if the applicant has had an order for repossession for anti social behaviour in the last 3 years or the applicant or a member of the applicant's family is subject to an ASBO

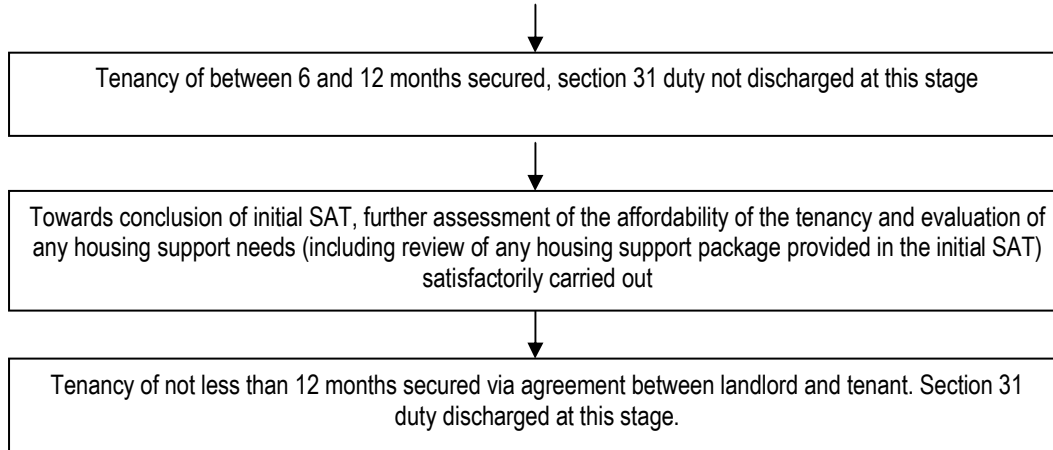
With the applicant's full and informed consent, it can also be:

- an affordable assured tenancy in the private rented sector, or
- an affordable short assured tenancy (SAT) of between 6 and 12 months, but duty is not discharged unless at the conclusion of the initial SAT, the landlord and tenant can agree to a renewal of the SAT for a period of no less than 12 months. Only a tenancy of at least 12 months' duration allows the section 31 duty to be complied with.

To ensure full and informed consent, we will provide the applicant with advice and information in respect of the rights and responsibilities of both tenants and landlords under a SAT. This information will highlight the differences in tenancy conditions that apply to SATs in comparison with Scottish Secure Tenancies and Assured Tenancies, with particular reference to security of tenure, rent setting and rights of repair. (See the quick tenancy comparison). We will also refer the applicant to sources of independent information and advice.

The following flowchart illustrates the course of action to be followed when implementing this recommended two-stage process.





We will carry out an affordability test at the outset of the initial SAT, and prior to commencement of the second stage (12-month minimum) SAT.

We will take the following factors into consideration when making an affordability assessment: -

- The income of the applicant, including the amount of Housing Benefit received if applicable
- Any anticipated increase or decrease in income over the medium to longer term
- Any anticipated increase or decrease in outgoings over the medium to longer term
- Whether the applicant might be considered to be vulnerable

We will also carry out a housing support assessment to determine if any support needs of the household can be met within the accommodation at the outset and prior to commencement of the second stage SAT.

We will ensure that any required package of support is made available at the commencement date of the tenancy, and for as long as is deemed to be required.

The applicant must agree in writing that duty can be discharged by the provision of accommodation that is not permanent. The consent will include confirmation that the applicant has received advice enabling them to make an informed choice.

We will not place an applicant in a private rented tenancy against their wishes.

We will develop procedures and protocols with private landlords to maximise access to the private rented sector. We will only work with landlords who conform to landlord registration and HMO licensing requirements.

On the termination of any short assured tenancy secured for an applicant in compliance with the section 31 duty, if the applicant finds themselves in a homeless situation again, we will not consider them to be intentionally homeless.

Council Housing

In relation to an offer of a Scottish Secure tenancy by the Council or Hjaltland Housing Association, homeless applicants will be offered the same choices as all other applicants in line with each organisations respective Allocation Policies.

We aim to offer homeless applicants a genuine choice of accommodation, as this is more likely to ensure sustainable resettlement. However, there is a mismatch between supply and demand of Council housing in Shetland, particularly in relation to smaller housing. In meeting urgent homelessness cases, we may have to use houses that are immediately available.

In an effort to reduce the length of time homeless applicants have to spend in temporary accommodation and to maximise options for permanent housing, in consultation with the applicant, the Housing Officer will determine which areas of choice are considered reasonable for the applicant.

We will consider the wide range of factors which may impact on resettlement - in particular the household's requirements in terms of proximity to family and friends and the accessibility of healthcare, employment, education and training and support providers.

Exclusion of a specific area, street or scheme from an applicant's areas will be considered in line with the guidance set out in the Allocation Policy.

Homeless applicants are allocated in date order. Homeless applicants are not awarded points, but are allocated permanent accommodation in line with allocation targets set out in the Shetland Islands Council's Allocation Policy.

Medical and social needs points do not apply to homeless applicants in relation to Council housing, but medical points are relevant in relation to Hjaltland Housing Association housing. Therefore medical and social need forms can be completed to verify medical or social issues as appropriate.

Minimising risk of repeat homelessness

If an applicant, who has been assessed as homeless, finds their own accommodation before a decision has been made and wishes to cancel their homeless application, the Housing Officer should satisfy themselves that this accommodation is suitable, reasonable for the applicant and that the applicant has rights to reside there e.g. SAT, assured tenancy agreement, permission from family.

The applicant should be given advice and information on their rights and any concerns the applicant has about the long term sustainability of the accommodation should be discussed.

In some cases, in particular when an applicant moves in with family or friends, it might be more appropriate to consider the applicant as 'homeless from home' or providing their own temporary accommodation pending decision. Applicants should be advised of this option as appropriate.

If the applicant does not want to stay with family or friends long term, but also does not wish to pursue a homeless application, they should be given advice and information to help them secure their own accommodation in a planned way.

If the applicant does not have rights to reside in the accommodation, and is in priority need they should be considered as providing their own temporary accommodation until permanent accommodation is secured.

If the applicant does not have rights to reside in the accommodation, and is not in priority need or is intentionally homeless, they should be considered as providing their own temporary accommodation and given advice and support to help them find more secure accommodation.

If the decision is taken to discharge duty to the applicant as they have secured their own accommodation, a follow up appointment should be arranged. If possible this should be a home visit to the applicant, to check that the accommodation is sustainable, and provide advice on housing options if required. Further follow up visits should be arranged as necessary e.g. at six months and at 12 months.

When homelessness is prevented due to negotiating with parents or landlords, the Housing Officer should follow up and make sure that any agreed actions have taken place. For example, if an eviction is stopped as an agreement has been reached about rent arrears, the Housing Officer must ensure the agreement is being stuck to and take action at an early stage if it is not. Follow up contact should be made with the applicant at four weeks and six months, or more frequently if required.

Advice and Assistance

There are regulations that set the framework for providing advice and assistance some of which are set out below.

The Housing Officer is required to take into account local housing conditions and the applicant's particular circumstances when providing advice and assistance.

The Council has a duty to provide advice and assistance to applicants in the following circumstances.

Threatened with homelessness

If an applicant is threatened with homelessness, the Housing Officer will provide advice and assistance to try and ensure that the applicant does not lose his/her accommodation.

This could include:

- ensuring the applicant is aware of their housing/tenancy rights
- advising where they could defend an action for eviction and
- advising where to go for independent advice and advocacy to assist with this process, e.g. to the Citizens Advice Bureau

Also the Housing Officer should arrange for, or make a referral for support, where this is felt to be necessary.

Applicants who are not in priority need or who are in priority need but are intentionally homeless

The Housing Officer will provide or ensure the provision of advice and assistance to help the applicant find their own accommodation. The applicant will be provided with temporary accommodation for such time as gives him/her a reasonable opportunity to secure their own accommodation.

Types of Advice and Assistance

The types of advice that the Housing Officer is expected to provide or access include housing advice, social advice, financial advice and legal advice. The statutory obligations on local authorities which specify the nature of the advice and assistance to be provided are detailed in the Homeless Persons Advice and Assistance (Scotland) Regulations 2002 (Appendix F).

The Housing Officer

- should consult the Housing Options Guide when providing advice to the applicant about possible housing options.
- where appropriate arrange appointments with or make referrals to relevant services/agencies such social care
- will refer the applicant to, or arrange an appointment with, services providing specialist financial advice - including welfare rights or maximising income where appropriate.

- advise on the availability of legal aid and independent advice and advocacy, such as CAB, Advocacy Shetland or other specialist services.
- provide the applicant with a written record of the interview , in particular of the advice and assistance provided
- arrange a follow up interview with the applicant within 4 weeks to review progress

Accommodation / advice and assistance

We will take reasonable steps to secure that accommodation does not cease to be available to someone threatened with homelessness, where we are satisfied that it is reasonable for them to continue to occupy.

This duty does not affect the Council’s right to secure vacant possession of our accommodation however we will aim to prevent homelessness occurring whenever possible.

Accommodation which is overcrowded and a danger to health, does not meet any special needs of the household or which it is otherwise not reasonable for the applicant to occupy is excluded from the above. Enabling an applicant to remain in such accommodation does not fulfil the Council’s duty and a person in this situation would still be homeless.

If someone is threatened with homelessness and is not in priority need, or is in priority need but threatened with homelessness intentionally, we will provide them with advice and assistance. The purpose of this advice and assistance will be to support attempts by the applicant to secure that accommodation does not cease to be available for his or her occupation.

We will consider what duties the Council would have towards an applicant and act quickly to prevent homelessness actually occurring where it is apparent that the loss of the applicant’s present accommodation cannot be avoided.

Protection of Property

The Council has a prescribed duty to protect the property of those applicants it believes to be homeless and has provided temporary accommodation for. This includes applicants who are ‘homeless at home’.

Applicants should be advised that the costs associated with removal and storage will be recharged to them after they have secured permanent accommodation. Applicants will not require to pay these costs prior to re-housing however, unless they wish to do so. Costs will also not have to be paid in one payment, and a repayment plan will be agreed with the applicant if needed.

If the Council has no “duty” to accommodate, it still has the power to take “reasonable steps” to protect an applicant’s belongings. Any such case should be brought to the attention of the Estate Manager.

Discharge of Duty

The Estate Manager is responsible for discharging duty towards a homeless applicant. When a Housing Officer decides that a case should be closed the file should be passed to the Estate Manager for review and completion on Orchard.

Not homeless or potentially homeless

When a decision has been reached that the person is not homeless or potentially homeless, the Council discharges its duty to a homeless applicant.

If the applicant has been provided with accommodation under the Council’s duty to provide interim accommodation, the application should be closed when the applicant has moved back to their last settled address or has moved out to other accommodation.

Homeless, non-priority or intentionally homeless

The Council discharges its duty when the applicant has secured alternative accommodation or has had a reasonable opportunity to secure alternative accommodation but has failed to take this opportunity.

In assessing a ‘reasonable opportunity’ we will refer to the Code of Guidance on Homelessness.

Homeless, priority, unintentional, no local connection

The Council discharges its duty when the outcome of the referral is decided.

Transitional arrangements may be needed when this duty expires (e.g. where the conditions for referral are satisfied but the notified authority has not yet provided accommodation or where the conditions are not accepted but the notifying authority does not have permanent accommodation available immediately).

Homeless, priority, unintentional, local connection

The Council discharges its duty when the applicant secures permanent accommodation as defined in this policy.

Lost Contacts

We will aim to maintain regular contact with all applicants, and will make every effort to locate an applicant if it appears contact has been lost.

Prior to issuing a lost contact decision, contact with the applicant should be attempted on more than one occasion by visit, phone, text (or letter if we have no phone number).

If a decision has not yet been made and additional information is needed to make the decision, the applicant should be advised of the information that we require and provided with a timescale with which to provide it.
Copies of any conversations/ letters issued should be kept on file.

The homeless application should not be closed, until at least 28 days after contact has been lost with the applicant.

General

There are many, if not most, cases, which do not fit “neatly” into a clear assessment. It should be remembered that this policy and the Code of Guidance are only intended as guides and each case should be considered individually, having regard to the Councils responsibilities. If Housing Officers have any doubt, either about the detail of this policy or the circumstances of individual cases this should be raised with their line manager.

At each stage in the assessment process, the Orchard Housing Management system should be updated. Detailed information on which part of the Housing (Scotland) Act 1987 as amended, decisions are being made in relation to should be held in the notes folders and on the file.

Statutory Notifications

All applicants must be informed, in writing, of the outcome of their application. This notification should be sent within 28 days from the date of the application unless further information is required. In these circumstances, the applicant should be notified in writing that further information is required.

File Management

Staff should be aware that the files are the record that the authority has complied with its legal obligations. For this reason files should contain:

- a fully completed homeless application form that is signed and dated
- copies of any correspondence

- files notes and records of meetings, interviews, telephone conversations
- any documentation relating to the applicants stay in temporary accommodation and
- details of any support that has been provided.

To ensure that this procedure is adhered to, prior to the case being "closed" the Estate Manager must check the file and sign it off. A file is "closed" once the statutory duty has been fully discharged. Please note that the file cannot be closed until any relevant paperwork has been received from the Outreach Workers or other support staff.

HL1 / HL2 Reporting

Where an application is made this should be recorded through the electronic case-based HL1 returns to the Scottish Executive Housing Statistics branch. It should be noted that the final section of the HL1 (dealing with the re-housing outcome) should not be completed until the case has been closed - i.e. we have discharged our duty in its entirety.

HL1 Completion

HL1s - are quarterly returns to Scottish Executive on homeless applicants.

Housing Officer holds a homeless assessment interview and completes the homeless application form.

First stage HL1

- Housing Officer carries out an assessment into the homeless presentation
- Housing Officer makes a decision within 28 days of the interview
- Housing Officer issues the decision letter
- The applicant then has 21 days in which to make an appeal of the decision
- If no appeal, the Housing Officer should complete questions 1 – 5 of the assessment decision form
- If the decision is appealed, the Senior Housing Officer – Outreach will notify the Policy & Information team and complete questions 1 – 5 following review

Second stage HL1

- When the case is closed and duty is discharged, the Housing Officer should complete questions 6 – 15 of the assessment decision form

Third stage HL1

- Policy & Information completes HL1 return

HL2 Completion

HL2s are quarterly returns to Scottish Executive on temporary accommodation and Section 11 notifications.

HL2 forms are completed and returned by the Policy & Information Team.

Monitoring

The Estate Manager will sign off all decision letters and duty discharges, which will ensure consistency in the application of these procedures. A system of peer sign off on decisions made may be developed and implemented during 2011-12.

In addition the Estate Manager will monitor performance against targets for each member of staff on a monthly, quarterly and annual basis and take corrective action as required.

This will include:

- Prevention activity
- Number of cases
- Decisions made
- Outcome
- Length of time taken for applications to be processed and closed
- Length of time in temporary accommodation
- Number of repeat homelessness presentations

Analysis of Service User Surveys results and recommendations for changes / improvements as a result

As a minimum we will publicise the above aspects in relation to our homeless policy.

The Senior Housing Officer – Outreach will carry out an annual audit of 10% of the previous year's closed HP cases, and reality checks on how the process is being carried out by Officers.

Performance against national performance will be monitored annually by HMT on release of the SPIs. Further comparisons will be carried out with other local authority areas as required.

Significant failures in performance will be highlighted to the Service Manager – Housing & Property as soon as possible.

For further information please contact us at:

Housing Services
6 North Ness Business Park

Lerwick

Telephone: **01595 744360**
Freephone: **0800 212 829**
Fax: **01595 744395**

In an emergency out with office hours please contact:

- Homelessness: **01595 695611**
- Council House Repairs: **01595 693972**
- Available 24 hours a day, 365 days a year

Email: Housing@shetland.gov.uk
Website: www.shetland.gov.uk/Housing

Our Office is Open

Monday to Friday 9 am to 5 pm,

We are open during lunchtimes.

Information on the various housing options available in Shetland can be found online in the Housing Options Guide.

This Policy and other housing information can, on request, be made available in Braille, on tape, in large print and in different languages. For further information please telephone Housing on 01595 744360, or email housing@shetland.gov.uk.

Appendix A – Homelessness

(1) A person is homeless if he has no accommodation in the United Kingdom or elsewhere.

(2) A person is to be treated as having no accommodation if there is no accommodation which he, together with any other person who normally resides with him as a member of his family or in circumstances in which the local authority consider it reasonable for that person to reside with him—

(a) is entitled to occupy by virtue of an interest in it or by virtue of an order of a court, or

(b) has a right or permission, or an implied right or permission to occupy, or in England and Wales has an express or implied licence to occupy, or

(c) occupies as a residence by virtue of any enactment or rule of law giving him the right to remain in occupation or restricting the right of any other person to recover possession.

(2A) A person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for him to continue to occupy. What is “reasonable” is a matter for judgment and will depend in some cases on the personal circumstances of the applicant - for example what might be reasonable for adults may not be for a household containing children, and mainstream housing may not be suitable for someone with physical impairments. This last point may apply even more to caravans and mobile homes.

(2B) Regard may be had, in determining whether it would be reasonable for a person to continue to occupy accommodation, to the general circumstances prevailing in relation to housing in the area of the local authority to whom he has applied for accommodation or for assistance in obtaining accommodation. Different tests of “reasonableness” should not be applied to different categories of applicant, e.g. applications from private tenants should be dealt with on the same basis as those from tenants of local authorities or RSLs.

(3) A person is also homeless if he has accommodation but—

(a) he cannot secure entry to it, e.g. this includes those who have a legal entitlement to accommodation to which they are unable to secure entry – such as unlawfully evicted tenants or occupiers who for some practical reason cannot immediately be restored to occupation of their homes; or

(b) it is probable that occupation of it will lead to violence from some other person residing in it or to threats of violence from some other person residing in it and likely to carry out the threats, or

(bb) it is probable that occupation of it will lead to—

- (i) violence; or
- (ii) threats of violence which are likely to be carried out, from some other person who previously resided with that person, whether in that accommodation or elsewhere, or

(c) it consists of a movable structure, vehicle or vessel designed or adapted for human habitation and there is no place where he is entitled or permitted both to place it and to reside in it, for example; temporary mooring for holiday use would not be sufficient; or

(d) it is overcrowded within the meaning of section 135 and may endanger the health of the occupants; or

(e) it is not permanent accommodation, in circumstances where, immediately before the commencement of his occupation of it, a local authority had a duty under section 31(2) in relation to him. This ensures that people who are owed a duty under section 31(2) are to be treated as being homeless if they are provided with accommodation, which is not permanent accommodation. This means that a local authority's duty under section 31(2) continues until permanent accommodation is secured. Permanent accommodation is defined in broad terms to acknowledge a range of situations which could reasonably be considered to be permanent accommodation and, therefore, end the local authority's duty under section 31(2)

(4) A person is threatened with homelessness if it is likely that he will become homeless within 2 months.

(5) For the purposes of subsection (3)(e), “permanent accommodation” includes accommodation—

(a) of which the person is the heritable proprietor,

(b) secured by a Scottish secure tenancy,

(c) secured by an assured tenancy that is not a short assured tenancy,

(d) where paragraph 1 or 2 of schedule 6 to the Housing (Scotland) Act 2001 (asp 10) is satisfied in relation to the person, secured by a short Scottish secure tenancy

[Housing \(Scotland\) Act 2001](#)

Appendix B – Priority Need

(1) The following have a priority need for accommodation—

(a) a pregnant woman or a person with whom a pregnant woman resides or might reasonably be expected to reside;

(b) a person with whom dependent children reside or might reasonably be expected to reside (a dependent child is a person up to 16 years of age or 19 years if they are in full time education, training or unable to support themselves for some special reason);

(c) a person who is vulnerable as a result of—

- (i) old age;
- (ii) mental illness;
- (iii) personality disorder;
- (iv) learning disability;
- (v) physical disability;
- (vi) chronic ill health;
- (vii) having suffered a miscarriage or undergone an abortion;
- (viii) having been discharged from a hospital, a prison or any part of the regular armed forces of the Crown; or
- (ix) other special reason;

(d) a person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or any other disaster;

(e) a person with whom a person referred to in paragraph (c) or (d) resides or might reasonably be expected to reside;

(f) a person aged 16 or 17;

(g) a person aged 18 to 20 who satisfies either of the conditions specified in subsection (1A);

(h) a person who, by reason of that person's religion, sexual orientation, race, colour or ethnic or national origins—

- (i) runs the risk of violence; or
- (ii) is, or is likely to be, the victim of a course of conduct amounting to harassment;

(i) a person who runs the risk of domestic abuse (within the meaning of section 33(3). The Protection from Abuse (Scotland) Act defines abuse as including – violence, harassment, threatening conduct and any other conduct giving rise or likely to give rise to physical or mental injury, fear, alarm or distress.

(1A) The conditions referred to in subsection (1)(g) are—

(a) that, by reason of the circumstances in which the person is living, the person runs the risk of sexual or financial exploitation or involvement in the serious misuse of alcohol, any drug (whether or not a controlled drug within the meaning of the Misuse of Drugs Act 1971 (c. 38)) or any volatile substance;

(b) that, at the time when the person ceased to be of school age (within the meaning of section 31 of the Education (Scotland) Act 1980 (c. 44)) or at any subsequent time, the person was looked after by a local authority (within the meaning of section 17(6) of the Children (Scotland) Act 1995 (c. 36)) and the person is no longer being so looked after.

(1B) In subsection (1)(h), the references to conduct, course of conduct and harassment are to be construed in accordance with section 8 of the Protection from Harassment Act 1997 (c. 40). The Protection of Harassment Act 1997 defines harassment as causing the person alarm or distress and conduct includes speech and a course of conduct means conduct that must have happened at least twice.

Appendix C - Intentionality

(1) A person becomes homeless intentionally if he deliberately does or fails to do anything in consequence of which he ceases to occupy accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy.

(2) A person becomes threatened with homelessness intentionally if he deliberately does or fails to do anything the likely result of which is that he will be forced to leave accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy.

(3) For the purposes of subsection (1) or (2) an act or omission in good faith on the part of a person who was unaware of any relevant fact shall not be treated as deliberate.

(4) Regard may be had, in determining for the purpose of subsections (1) and (2) whether it would have been reasonable for a person to continue to occupy accommodation, to the general circumstances prevailing in relation to housing in the district of the local authority to whom he applied for accommodation or for assistance in obtaining accommodation.

The onus is on the Council to prove intentional homelessness. It is not for the applicant to prove that they are unintentionally homeless.

Appendix D – Local Connection

- (1) Any reference in this Part to a person having a local connection with a district is a reference to his having a connection with that district—
- (a) because he is, or in the past was, normally resident in it and his residence in it is or was of his own choice; or
 - (b) because he is employed in it, or
 - (c) because of family associations, or
 - (d) because of any special circumstances.
- (2) Residence in a district is not of a person's own choice for the purposes of subsection (1) if he became resident in it—
- (a) because he or any person who might reasonably be expected to reside with him—
 - (i) was detained under the authority of any Act of Parliament, or
 - (ii) was resident in accommodation provided in pursuance of section 95 (provision of support for asylum-seekers and dependants) of the Immigration and Asylum Act 1999 (c. 33), or
 - (b) in such other circumstances as the Secretary of State may by order specify.
- (3) A person is not employed in a district for the purposes of subsection (1)—
- (a) in such circumstances as the Secretary of State may by order specify.

Appendix F – Advice and Assistance

Type of advice to be provided by local authorities

- (a) housing advice appropriate to local housing conditions and the applicant's circumstances which may include-
- (i) advice on the availability of permanent accommodation provided by local authorities or registered social landlords;
 - (ii) advice on the availability of temporary accommodation provided by local authorities, registered social landlords and other private, public or voluntary bodies;
 - (iii) advice on nomination procedures, waiting lists and any restrictions imposed by landlords;
 - (iv) advice on specialist, supported or furnished accommodation;
 - (v) advice on services provided by estate agents and accommodation agencies; and
 - (vi) advice on owner occupation including shared ownership and the availability of grants for owner occupation, improvement, repair and adaptation;
- (b) advice on social issues appropriate to an applicant's circumstances including advice on services provided by specialist agencies or bodies dealing with health, welfare or other social issues;
- (c) financial advice appropriate to an applicant's circumstances, which may include-
- (i) advice on the availability of personal benefits, grants and loans directly or indirectly related to the provision of housing;
 - (ii) advice on rent and mortgage arrears and the financial implications of home ownership;
 - (iii) advice on the management of personal finance;
 - (iv) advice on rent guarantee and deposit schemes; and
 - (v) advice on specialist agencies providing financial advice to individuals; and
- (d) legal advice appropriate on an applicant's circumstances which may include-

- (i) advice on court proceedings;
- (ii) advice on legal rights including-
 - (a) advice on the availability of legal aid; and
 - (b) advice on the availability of independent advice and advocacy.

Types of assistance to be provided by local authorities

- (a) providing a personal interview at such time and place, and with a local authority officer of such sex, as the applicant may reasonably request;
- (b) providing an interpreter or an independent personal representative for an applicant at any interview if a request is made by the applicant to that effect;
- (c) providing a written record of any interview held under this regulation in an appropriate form for the applicant including Braille, translation or large print;
- (d) providing for a follow up interview to review progress;
- (e) arranging and facilitating interviews and appointments with other independent providers of housing financial or legal services; and
- (f) providing access to mediation services for family and neighbour disputes and harassment.

[Advice and Assistance Regulations 2002](#)