

**Comhairle Contae an Chláir
Clare County Council
Social Housing Allocation Scheme**

In accordance with Section 22 of the Housing (Miscellaneous Provisions) Act 2009 and the Social Housing Allocation Regulations 2011 (S.I. No. 198 of 2011) as amended by the Social Housing Allocation (Amended) Regulations 2016 (S.I. No 503 of 2016).

Effective from: 8th March 2021

1. Introduction

- 1.1 Part 2 of the Housing (Miscellaneous Provisions) Act 2009 as amended by the Housing (Miscellaneous Provisions) Act 2014 (hereinafter referred to as "the Act") sets out the functions of housing authorities. Chapter 3 of Part 2 of the Act and the Social Housing Allocation Regulations 2011 and the Social Housing Allocation (Amendment) Regulations 2016 (hereinafter referred to as "the regulations") set out the legal framework for the allocation of dwellings by housing authorities and are referred to collectively in this Scheme as "the Housing Acts/Regulations"
- 1.2 This Allocation Scheme (hereinafter referred to as "the Scheme") sets out the priorities and procedures for allocating dwellings to which section 22 of "the Act" applies, as agreed by the Elected Members of Clare County Council. The Scheme recognises the need to achieve sustainable communities in allocating dwellings while balancing the needs and preferences of applicants.
- 1.3 The Council will also comply with any general policy directions and have regard to any guidelines or directions issued to housing authorities by the Minister for Housing, Local Government and Heritage in relation to the performance of their functions under the Housing Acts/Regulations.
- 1.4 The Council may from time to time review this Scheme and, as it considers necessary and appropriate, amend the Scheme or make a new Allocation Scheme.

2. Scope

- 2.1 This Scheme applies to the allocation of the following dwellings only:
 - (a) dwellings provided under the Housing Acts/Regulations or Part V of the Planning and Development Act 2000 that are owned by the council,
 - (b) dwellings that are not owned by the council but which are held by the council under a contract or lease between the council and the owner concerned, including rental accommodation availability agreements, and
 - (c) dwellings owned and provided by approved bodies to whom

assistance is given under section 6 of the Act of 1992 for the purposes of such provision.

2.2 The purpose of this Scheme is to determine the order of priority to be accorded and implemented in the allocation of dwellings to:

- (a) households or particular classes of households who have been assessed under section 20 of the Act as being qualified for social housing support, and
- (b) households in receipt of social housing support that have applied to the council to transfer to another dwelling or to purchase a dwelling under Part 3 of the Act and the council consents to such transfer or purchase, as the case may be.

2.3 The Scheme makes provision for a proportion of dwellings in any part or parts of the council's functional area to be reserved for all or any of the following purposes:

- (a) allocation to particular classes of household;
- (b) allocation to particular forms of tenure
- (c) allocation to households transferring from other forms of social housing support

2.4 The Scheme also sets out the requirements and procedures for transfers, including tenants of dwellings provided under RAS, Social Housing Leasing initiatives, those accommodated under HAP, succession to tenancies and downsizing for those who want to move from an under-occupied dwelling to other housing.

3. General

3.1 Eligibility: Households must comply with the eligibility criteria as set out in the Housing Acts/Regulations

3.2 Application and Additional Information: Applicant households must complete in full the prescribed Application Form provided by the council and must, within 4 weeks of being requested to do so by the council, submit any additional information, including documents and other particulars, that the council may reasonably request for the purposes of verifying information relating to their application. Upon request for stated reasons the council may agree to an extension of this 4 week period.

3.3 Change in circumstances: Where, after the making of an application, the circumstances of the applicant change (e.g. change of address, birth of a child, change in medical circumstances, changes in the number of persons to reside with the applicant, etc.), it is the household's responsibility to inform the council of any such change. The council will review the household's application following any such notification.

If the applicant wishes to add an additional/new adult to the household, a complete social housing application including supporting documentation must be submitted for the person, which will then be

considered by Clare County Council under the terms of the relevant legislation.

- 3.4 Personal Data: All Application Forms (including transfer applications, succession applications and applications for permission to reside) require applicants to furnish written authority to enable the council to access or obtain information held by other housing authorities, approved housing bodies, the Health Service Executive, An Garda Síochána, the Revenue Commissioners, the Department of Social Protection, the Residential Tenancies Board and the Criminal Assets Bureau, which in the council's opinion is relevant to the applicant's application. The council processes personal information received in line with the provisions of the General Data Protection regulations. In line with GDPR Clare Co Council require express written permission from a client to obtain information held by other bodies. While the application form provides consent we are obliged to review the consent as the declaration form cannot be taken as eternal consent and the applicant reserves the right to withdraw consent at any time.
- 3.5 Areas of Choice: Households applying in the first instance for allocation of a dwelling or applying to transfer from other forms of social housing support may specify areas of choice in the administrative area of the council in which they wish to receive social housing support. The total number of areas of choice specified on the Application Form shall not exceed three. A qualified household may notify the council that it wishes to change one or more than one area of choice in the application subject to compliance with the following conditions:
- (a) the household may not change an area of choice within the period of 12 months following notification of that area of choice to the council,
 - (b) where a household notifies the council that it no longer wishes to reside in an area of choice that it previously specified, the household may not, within the period of 12 months following such notification, change its preferences so as to specify that area of choice again, and
 - (c) the total number of areas of choice specified by the household at any time shall not exceed three.
- Clare County Council will advertise the availability of some properties under Choice Based Letting (ref Section 8). Applicants may express an interest in any properties advertised on CBL irrespective of area of choice identified in their housing application.
- 3.6 Housing Need: Housing need refers to standards that the council uses to assess a household's housing circumstances. In determining housing need, the council has regard, among other things, to the following matters relating to the household's current accommodation:
- (a) whether it is an institution, emergency accommodation or a hostel,
 - (b) whether the household is homeless within the meaning of Section 2 of the Housing Act 1988,
 - (c) whether it is overcrowded within the meaning of section 63 of the Act of 1966,

- (d) its fitness for human habitation, having regard to the matters set out in the Second Schedule to the Act of 1966,
- (e) whether the accommodation is unsuitable for the households adequate housing on medical or compassionate grounds,
- (f) the extent to which it meets any accommodation requirement arising from the enduring physical, sensory, mental health or intellectual impairment of a household member,
- (g) where it is shared with another household, whether the household that has applied for social housing support has a reasonable requirement for separate accommodation,
- (h) whether it has been concluded under the Mortgage Arrears Resolution Process set out in the Code of Conduct on Mortgage Arrears 2013 issued under Section 117 of the Central Bank Act 1989 that the mortgage on the accommodation is unsustainable for the mortgagee
- (i) where the household in the opinion of the housing authority, required the payment of a supplement under Section 198(3) of the Act of 2005 towards an amount payable by the household in respect of the household's current accommodation,
- (j) whether it is unsuitable for the household's adequate housing in any other material respect, having regard to particular household circumstances.

Households must notify the council of any change in circumstances that might affect their eligibility for a dwelling as soon as may be, but not later than two weeks immediately following any such change in circumstances.

3.7 Type of dwelling: Households may indicate the type of dwelling property sought (e.g. general needs, adapted, Traveller specific or sheltered), the design of the dwelling (e.g. house, bungalow, apartment) and the approval is based on household composition.

3.8 Order of priority for dwelling allocations: The council will give reasonable preference to certain household groups when allocating dwellings. The household groups and the order of priority that may be given to the household groups are as follows:

- (a) homeless persons as defined by Section 2 of the Housing Act, 1988 and referred via the Homeless Action Team of the council.
- (b) persons living in accommodation that is unfit for human habitation as defined in Section 66(2) of the Housing Act, 1966, and the Second Schedule of that Act, or, is materially unsuitable for their adequate housing, where there is no evidence of the tenant having contributed to the condition of the dwelling.
- (c) persons in accommodation, the extent to which it does not meet their requirements, arising from the enduring physical, sensory, mental health or intellectual impairment of a household member.
- (d) Persons who require accommodation on exceptional medical or compassionate grounds.
- (e) persons living in overcrowded accommodation within the meaning of Section 63 of the Housing Act, 1966.
- (f) Households identified by the Housing Welfare Officer or Housing Professional Social Worker(s) who have a requirement for

accommodation for exceptional reasons.

- (g) involuntarily sharing accommodation with another person and having a reasonable requirement for separate accommodation.
- (h) persons who are not, in the opinion of the council, reasonably able to meet the cost of the accommodation which they are occupying or to obtain suitable alternative accommodation.
- (i) persons not included in any other specific category above, who have been assessed and approved for social housing supports.

In determining priorities within the categories defined by the scheme, regard may be given to the length of time on the housing waiting list of a qualified household.

Where the need for accommodation arises from specified exceptional circumstances, including displacement by fire, flood or any other emergency, development, re-development or regeneration of an area by the housing authority or exceptional medical or compassionate grounds the Council may make a letting as it considers necessary to meet this need, notwithstanding the order of priorities for lettings as set out in this scheme.

As a general rule, and in accordance with Regulation 4(2), priority as between households within the same group will be determined by reference to the date of entry of the household on the council's record of qualified households. In the allocation of dwellings where priority is claimed on grounds consisting of, or including, exceptional medical grounds, the Council will require a report from a medical practitioner employed by the Health Service Executive at the time of application.

3.9 RAS tenants: Tenants who transferred to RAS will be given credit for their time on the record of qualified households from the date of their approved housing application, where they apply to transfer to another form of social housing support, and were on the record of qualified households prior to the commencement of their RAS tenancy. Allocations shall be made to such tenants in accordance with the basis of need and priorities list as per paragraph 3.8.

3.10 If a situation arises consideration can be given to making provision for mutual/inter-county transfer if agreed by both Local Authorities.

4. Reservation of Dwellings

4.1 The council will from time to time, as it considers appropriate, designate a particular number or proportion of dwellings becoming available for allocation for the accommodation of:

- a) Persons with an age friendly housing need,
- b) persons with a physical, sensory, mental health or intellectual impairment,
- c) young person's leaving institutional care,
- d) persons in need of accommodation for medical or compassionate reasons or

- e) any household group or groups with a particular housing need for whom the council in its discretion considers it prudent to provide accommodation

The Council will from time to time as it considers appropriate, designate a particular number or proportion of dwellings for particular forms of tenure in relation to the provision of homeless services via Clare Homeless Action Team regarding projects and licencing arrangements with approved housing bodies.

Where a particular number or proportion of dwellings is set aside or designated for a particular category or categories of household, priority shall be accorded to households of that particular category in the allocation of those dwellings. Priority will be determined for households in this category by the length of time that the household has been entered on the council's housing waiting list.

5. Matters Disregarded

- 5.1 The council will disregard the accommodation that a household is occupying where the council has reason to believe that the household or any member of it has deliberately, or without good and sufficient reason, done or failed to do anything (other than an action or omission in good faith) in consequence of which the accommodation the household is occupying is less suitable for the household's adequate housing than other accommodation which it would have been, or would be, reasonable for the household to occupy.

6. Deferral or Refusal

- 6.1 Notwithstanding anything contained in the Housing Acts/Regulations or in this Scheme, the council may in accordance with the provisions of Section 14 (1)(a) of the Housing (Miscellaneous Provisions) Act 1997 (as amended), refuse to allocate or defer the allocation of a dwelling, to a household where:
 - (a) the council considers that any member of the household is or has been engaged in anti-social behaviour within the meaning of section 1(1) of the Housing (Miscellaneous Provisions) Act, 1997 (as amended) or that an allocation to that household would not be in the interest of good estate management, or
 - (b) the household fails to provide information including information relating to members residing together or proposing to reside together as part of the household which is requested, which the council considers relevant in connection with an allocation.
- 6.2 Notwithstanding anything contained in Part 3 of the 2009 Act, the council may refuse to sell a dwelling to an eligible household (under Part 3 of the 2009 Act) where the Council considers that the eligible household or any member of the eligible household, as the case may

be, is or has been engaged in anti-social behaviour within the meaning of section 1(1) of the Housing (Miscellaneous Provisions) Act, 1997 (as amended) or that a sale to that eligible household would not be in the interest of good estate management.

6.3 The council will not allocate a dwelling to a qualified household where a household member:

- (a) damaged a dwelling or site previously provided by any housing authority and neither repaired the property nor paid for the cost of repairs,
- (b) was previously a tenant of a dwelling or site provided by a housing authority and incurred arrears of rent for an accumulated period of 12 weeks or more in any period of 3 years as such tenant, which arrears have not been paid and the household member concerned has not entered into an arrangement with the housing authority for the payment of such monies or, having entered into such an arrangement, has not substantially complied with its terms.

6.4 The council will not allocate a dwelling to a household where a household member has breached the terms of the tenancy agreement for a dwelling or site provided by a housing authority in consequence of which that authority terminated the tenancy.

6.5 The council will not allocate a dwelling to a household that:

- a) refuses to furnish any information requested by the council which is reasonably required either for the purpose of assessing the housing application or for estate management purposes.
- b) refuses to authorise the furnishing of personal data or information pertaining to the household by other agencies where such data or information is reasonably required by the council for estate management purposes.
- c) provides false or misleading information either on the application form or at subsequent interviews.
- d) The council will not allocate a dwelling to a household that is illegally occupying a dwelling provided by the council or any part thereof, whether continuously or otherwise

6.6 Where the council receives an application for the allocation of a dwelling from a household that is illegally occupying a council dwelling, the date of that application will be adjusted by the period of illegal occupation and the application will not be considered until the illegal occupation has ceased.

6.7 The allocation of accommodation to a household who illegally occupied a council dwelling will be deferred until such time as that household delivers up vacant possession of the dwelling to the council in the same condition as prior to the commencement of the illegal occupation or has paid to the council the reasonable cost of any damage caused to the dwelling during the period of their illegal occupation.

6.8 All deferred applications will be reviewed by the council when a relevant change in circumstances is notified by the household applicant to the council and in any event no later than twelve months after the decision to defer has been made.

7. Refusal by Applicants of Offers of Social Housing

7.1 Where a qualified household refuses two reasonable offers of the allocation of different dwellings in any continuous period of one year commencing on the date of the first refusal, that household shall not, for the period of one year commencing on the date of the second refusal, be considered by the council for the allocation of a dwelling to which section 22 of the Act of 2009 applies. The latter period shall not subsequently be reckonable in any way for the purposes of determining the relative priority of that household for a dwelling allocation.

7.2 An offer of a dwelling allocation made by the council will be deemed reasonable where, in the opinion of the council, the dwelling offered meets the accommodation needs and requirements of the household and the dwelling is situated in an area of choice specified by the household. If, however, the Council offers to allocate a dwelling to a household outside the household's area of choice, due to that household being displaced due to fire, flood or other emergency, development, redevelopment or regeneration of a housing area by the housing authority or on exceptional medical or compassionate grounds, in such circumstances, the fact that the offers is not within the applicant's area of choice will not deem the offer to be unreasonable.

7.3 Refusal of offers of accommodation under Short Term Leasing and or Long Term Leasing and with approved housing bodies will be treated by the council as a refusal of accommodation.

7.4 Where a qualified household, deemed to be homeless within the meaning of Section 2 of the Housing Act 1988, refuses a reasonable offer of a dwelling that meets the accommodation needs of the household, the household may not, for the period of one year commencing on the date of such refusal, be entitled to be included on the record of qualified households on the basis of being homeless within the meaning of Section 2 of the Housing Act 1988. In such circumstances, the offer does not have to be in any of their areas of choice for it to be considered a reasonable offer. Please note that under Regulation 12 of the Social Housing Allocation Regulations 2011, a household that refuses two reasonable offers of such tenancies in any twelve-month period, other than an offer made under the choice-based letting procedure, will not receive any further offers from any housing authority for a

period of one year from the date of the second refusal and the latter period is not subsequently reckonable for the purposes of determining the household's relative priority for another social housing tenancy.

- 7.5 The final decision in relation to any allocation of a dwelling will be made by the authorised housing officer, Social Directorate Clare County Council in pursuance of the authority delegated to him/her by Order of the Chief Executive or by any other person so delegated. In making this decision, the authorised housing officer shall have regard to all information furnished by the household in support of their application together with all other relevant information including the household's waiting time on Clare County Council's social housing support waiting list, stated preference area(s), family size and type of dwelling and property available for allocation.

8. Choice Based Letting (CBL)

- 8.1 Dwellings: The council will operate a Choice Based Letting Scheme (CBL) to enable households qualified for the full range of Social Housing Supports on Clare County Councils housing waiting list, to exercise greater choice and involvement in selecting a new home. Dwellings owned by the council and provided under the Housing Acts/Regulations or Part V of the Planning and Development Act 2000 may be allocated through CBL. However, not all such dwellings which become available for letting will be offered through CBL. In particular, but not limited to, sheltered housing units, elderly person dwellings and specially adapted wheelchair accessible dwellings may not be allocated through CBL. Dwellings which are expected to be allocated within six months and which are to be allocated under CBL will be designated from time to time by Order of the Chief Executive. Dwellings owned by Approved Housing Bodies may be advertised on CBL with the agreement of the Approved Housing Body, and expressions of interest in being nominated to the Approved Housing Bodies may be made.

- 8.2 Procedure: The procedure for CBL will be in accordance with Regulations 6 to 11 of the Social Housing Assessment Regulations 2011. For the purposes of CBL a "qualified household" is a household that has been assessed by the council under section 20 of the Housing (Miscellaneous Provisions) Act 2009 as qualified for social housing support. A household to whom a dwelling has been provided by an Approved Housing Body is not a qualified household.

Where dwellings are designated for CBL, dwellings are advertised on each Wednesday night at midnight. They will remain advertised until midnight of the following Tuesday.

- via the Council's website www.cbl.clarecoco.ie
- via the Council's Facebook page

The advertisement will show details such as:

- the location of the dwelling

- details of the dwelling in terms of property type, number of bedrooms, size, garden, parking etc.
- photographs of the dwelling

8.3 Eligibility: Qualified households will be eligible if the dwelling is suitable for their household size and the council has received the household's expression of interest before the deadline for receipt of same has passed. The council will only consider expressions of interest from eligible qualified households.

8.4 Ineligibility: Qualified households will not be considered for the allocation of CBL designated dwellings in respect of which they have not made an expression of interest. Expressions of Interest made by households larger or smaller than the size the advertised dwelling is designed for will not be successful. The council will also refuse expressions of interest from qualified households if the CBL dwelling does not meet the household's accommodation needs as assessed by the council.

8.5 CBL expression of interest Process: Interested and eligible qualified households can express their interest in a CBL designated dwelling before the closing date on line on www.cbl.clare.ie

8.6 Decision Process: All Expressions of Interest received on or before the closing date will be assessed by the council. After the close of the advertising cycle a shortlist of eligible households will be drawn up. Shortlisted applicants will be met where necessary and a formal housing need assessment carried out. An allocation offer is made to the household with the greater priority in accordance with the Allocation Scheme.

8.7 Refusal of a CBL: Where an applicant refuses a reasonable offer of the allocation of a dwelling, or is deemed to have refused such offer, that household shall not, for the period of one year commencing on the date of such refusal, be entitled to make a further application under CBL to the council for the allocation of a bid dwelling.

8.8 The council may, at its discretion, and at any stage prior to allocating a CBL designated dwelling, decide to terminate the designation of that dwelling as a bid dwelling and not to proceed, or not to continue, with choice-based letting in respect of that dwelling.

9 Transfers for Local Authority Tenants

9.1 All existing council tenants, tenants of leased dwellings, including dwellings provided under RAS, approved housing body tenants and qualified households availing of the HAP scheme who are resident within the council's functional area may apply to be placed on the council's record of households that have applied to transfer to another dwelling.

- 9.2 The council may consider applications for transfer by tenants to facilitate:
- (i) households whose current accommodation is overcrowded within the meaning of section 63 of the Act of 1966;
 - (ii) households who are under-utilising current accommodation;
 - (iii) households who need to move because their current accommodation does not meet accommodation requirements arising from the enduring physical, sensory, mental health or intellectual impairment of a household member;
 - (iv) households who need to move for exceptional medical or compassionate reasons;
- 9.3 Priority may be afforded to both RAS and leased tenants for transfer at the end of contracts.
- 9.4 Allocations to households on the transfer list will be made taking into account all relevant information furnished by the household in support of its transfer application together with all other relevant information known to the duly delegated housing officer, the date of entry of the household onto the transfer list and the household's stated preference area(s), family size and type of dwelling required.
- 9.5 Qualified households who are HAP recipients who indicate they wish to be placed on the council's record of households that have applied to transfer to another dwelling shall retain the specific priority that the household would have had if they had remained on the council's record of qualified households, that is to say, their priority for transfer will be determined by reference to the date upon which they were entered on the council's record of qualified households.
- 9.6 Prior to the allocation of a dwelling on foot of a request for a transfer, the council reserves the right to have the following requirements met by the household in respect of their existing tenancy:
- (a) The household must have resided in the dwelling the subject of its existing tenancy agreement for a minimum period of two years prior to the date of allocation;
 - (b) The household must have a clear rent account for a period of six months prior to the date of application for transfer and also when applicable, prior to the assessment for allocation;
 - (c) The household's existing dwelling must be maintained in a manner satisfactory to the council;
 - (d) The household must be compliant with all the conditions of its existing tenancy agreement;
 - (e) The household must agree to sign a Form of Surrender for the Tenancy Agreement for the previous council property if a transfer is approved and transfer forthcoming

10 Succession to Tenancies

- 10.1 When a council tenant who is a sole tenant dies or is unable to remain in a dwelling for reasons beyond their control (for

example, long term hospitalisation or imprisonment) it may be possible for a member of the tenant's household to succeed to the tenancy. A formal written succession application must be made to the council within 2 months of the death or departure of the tenant and be accompanied by supporting evidence and information to prove their entitlement to succeed. The council may at its own discretion decide to grant an extension of time in special circumstances.

10.2 On receipt of a succession application, the council will assess the application to determine whether or not the applicant has a right to succeed to the tenancy.

10.3 Applicants must furnish any additional information, including documents and other particulars that the council may reasonably request for the purposes of verifying information relating to their application.

10.4 In order to be considered to succeed to the tenancy of a deceased tenant, an applicant must be able to demonstrate to the satisfaction of the council:

(a) that they have been resident in the dwelling for a continuous period of at least two years prior to the death or departure of the tenant.

(b) that they meet the eligibility criteria to qualify for social housing support in accordance with Section 20 of the Housing (Miscellaneous Provisions) Act, 2009 and the Social Housing Assessment Regulations 2011 as amended.

(c) that they were an approved occupant of the tenant's household and included on the Rent Declaration Form in respect of the dwelling for at least two years prior to the death or departure of the tenant.

(d) that they have not engaged in anti-social behaviour in accordance with the terms of Clare County Councils Anti- Social Behaviour Policy.

(e) that they have not caused any breaches to the tenancy agreement while residing in the dwelling that necessitated the issue of a warning letter to the tenant under sections 7, 8 or 9 of the Housing (Miscellaneous Provisions) Act 2014.

10.5 Applications will not be accepted if a person applying for succession has been an unsatisfactory former tenant of the Local Authority or of an approved housing body. An unsatisfactory former tenant includes one who has damaged a property, has rental and/or non-rent debt outstanding to the council/approved housing body or whose tenancy was terminated due to a breach of the tenancy agreement or has been involved in illegal or violent activities in any property provided by the council or any approved housing body.

10.6 Where there is more than one member of a deceased tenant's household who meets the eligibility criteria set out in paragraph 10.4 above, a joint tenancy may be granted by the council based on all the circumstances of the household and the agreement of the qualifying members of the household to enter into a joint tenancy. If the

qualifying members of the household cannot agree amongst themselves to a joint tenancy or who among them is to become the sole tenant, the council will grant the tenancy in line with the scheme of letting priorities as applicable to the household.

- 10.7 Where a household member is eligible to succeed a tenancy on the death of the previous tenant and the dwelling is in the opinion of the council larger than is reasonably required for his or her adequate accommodation needs or the dwelling has been designed and adapted for someone with a physical disability who no longer resides in the dwelling, the council will not allocate that dwelling but will allocate an alternative dwelling suitable, subject to availability, for his or her adequate housing that is located as near as practicable to the dwelling or in the household member's area of choice. Despite the fact that the surviving family members may have lived in a particular dwelling for many years, the council will seek and will be entitled to recover vacant possession of any under-occupied dwelling in order to ensure the best use of their housing stock. The household member will be given priority for an allocation of an appropriately sized dwelling and given reasonable time to move to the alternative dwelling.
- 10.8 It may be appropriate in exceptional circumstances to grant a new tenancy to a person who does not have a legal right to succeed following the death of a sole tenant. Where a sole tenant dies and another person (who does not meet the eligibility criteria to succeed to the tenancy) has been living with the lawful tenant for the continuous year prior to the tenant's death for the purpose of providing care for the tenant, or is the legal guardian or custodian of the deceased tenant's minor dependants and needs to live with them in order to fulfil that role, the council may in its absolute discretion consider granting a tenancy to such person, either in the same dwelling or in a suitable alternative dwelling, provided the allocation has no adverse implications for the good use of the housing stock.
- 10.9 No succession to tenancy will be considered where the dwelling is designated as an Older Persons Dwelling (OPD) and where the person making the succession application is not themselves a qualifying elderly person.
- 10.10 Each succession application will be examined on its own merits and applications will be considered where the above conditions have been complied with.

11. Succession in Other Circumstances

- 11.1 In cases where a joint tenant of a dwelling provided by the council vacates the dwelling and ceases to reside in the dwelling for a period of at least 1 year, the authorised Housing officer, after due consideration of all the known and relevant circumstances (including the non-payment of rent by that joint tenant), may approve the

allocation of the dwelling to the remaining resident joint tenant as sole tenant provided (a) the dwelling is not under-occupied and (b) the joint tenant who has remained residing in the dwelling serves on the council a Notice to Quit to bring the joint tenancy to an end or both joint tenants sign a Form of Surrender of Joint Tenancy.

11.2 In cases where there is an existing tenancy of a dwelling provided by the council to tenants who are married but who have executed a Deed of Separation or obtained a Decree of Judicial Separation, the Council will have regard to the terms of such Agreement or Court Order as the case may be, in so far as it relates to the status of the tenancy. In cases where a Property Adjustment Order has been made by Court Order, the council will give effect to any such Order transferring the tenancy to a sole tenant provided a certified true copy of the Court Order is furnished to the council.

11.3 In cases where the sole tenant vacates a dwelling provided by the council, under a deed of separation or court order there is no obligation on the Housing authority to immediately accommodate the displaced tenant.

11.4 The spouse, co-habitant or civil partner in occupation of the dwelling, the authorised housing officer may after due consideration of all the known and relevant circumstances, approve the allocation of the dwelling to the remaining spouse or co-habitant or civil partner (if any) of the vacating tenant provided:

- (a) A Form of Surrender in respect of the tenancy, witnessed by a practicing solicitor, is signed by the tenant and delivered to the council,
- (b) the remaining spouse, co-habitant or civil partner has resided in the dwelling for a period of at least 2 years and has been assessed for rent purposes and is not the owner of any property or
- (c) the remaining spouse, co-habitant or civil partner who having left the dwelling for a period, has returned and resided in the dwelling with the lawful tenant with the permission of the council for a period of at least 1 year prior to the vacating of the dwelling by the tenant and is not the owner of any property, and
- (d) the remaining spouse, co-habitant or civil partner meets the eligibility criteria to qualify for social housing support in accordance with Section 20 of the Act and the Regulations.

12. Permission to reside as an occupant in Council dwellings

12.1 The prior written consent of the council is required where a tenant wishes to have an additional adult reside with them. Applications by a tenant for such consent will be considered on their merits and will involve an assessment of the following:

- (a) The applicant's reasons for the application;
- (b) The applicant's medical, welfare or compassionate needs;
- (c) The applicant's need for full time care;

- (d) The capacity of the dwelling to accommodate the proposed additional resident having regard to the number of persons already in lawful occupation of the dwelling with the tenant;
- (e) The proposed additional resident's ability to provide housing from his or her own financial resources;
- (f) The proposed additional resident's previous record, if any, as a tenant or resident of a housing authority or approved housing body or as a RAS tenant.
- (g) The verification of the proposed resident's suitability as an occupier.
- (h) The verification of eligibility for social housing supports

Where the Council is of the opinion and is satisfied that the application to reside is being made solely in an effort to enable the proposed resident to succeed to the tenancy, permission to reside will not be granted.

12.2 The granting of permission to a tenant to have the proposed additional resident reside with the tenant does not confer an automatic right on the proposed additional resident to succeed to the tenancy in the dwelling and confers no entitlement whatsoever on the proposed additional resident to any interest in the dwelling. Upon the tenant ceasing to hold the tenancy either through surrender, termination, death or otherwise, the approved additional resident will be required to vacate the dwelling unless the council decides that Sections 10 and/or 11 are applicable.

12.3 The granting of permission to the tenant to have the proposed additional resident reside in the dwelling with the tenant for the purpose of caring for the tenant for the duration of an illness shall be subject to the lawful tenant providing satisfactory evidence of the role and proof of permission to permanently reside in the country.

13. Joint Tenancy Application

13.1 A tenant who wishes to have another person named as joint tenant must apply in writing to the council. A Joint Tenancy Application Form must be fully completed and signed by the tenant and the proposed joint tenant. Joint Tenancy Applications will be considered on their merits and will involve an assessment of the following:

- a) The tenant's reasons for the application;
- b) The capacity of the dwelling to accommodate the proposed joint tenant having regard to the number of persons in occupation of the dwelling with the tenant;
- c) The ability of the proposed joint tenant to provide housing from his or her own financial resources. A proposed joint tenant must meet the eligibility criteria to qualify for social housing support in accordance with the Housing Acts/Regulations.
- d) The proposed joint tenant's suitability to occupy a council dwelling and in this regard, the proposed joint tenant must not have engaged in anti-social behaviour for a continuous period of

at least 3 years prior to the date of the application.

- e) Has the proposed joint tenant caused any breaches to the tenancy agreement while residing in the dwelling that necessitated the issue of tenancy warning under sections 7, 8 or 9 of the Housing (Miscellaneous Provisions) Act 2014.

13.2 The council may refuse a joint tenancy application for the following reasons:

- (a) The proposed joint tenant was previously evicted from a local authority/approved housing body dwelling for anti-social behaviour or non-payment of rent.
- (b) The proposed joint tenant caused a breach of the tenant's tenancy agreement while residing in the dwelling that necessitated the issue of a tenancy warning and such breach continued or was repeated within 12 months of the tenancy warning coming into effect.
- (c) The proposed joint tenant owes to the council or any other housing authority or approved housing body rent or other monies.
- (d) The tenant's dwelling would become overcrowded.
- (e) The tenant's dwelling is unsuitable for the accommodation needs of the proposed joint tenant.
- (f) Other persons' rights may be affected.
- (g) The proposed joint tenant is not eligible for the provision of social housing support.
- (h) False or misleading information is knowingly provided by the tenant or the proposed joint tenant to the council.

13.3 The council will, for the purposes of their functions under the Housing Acts/Regulations, request information pursuant to section 15 of the Housing (Miscellaneous Provisions) Act 1997 in relation to the proposed joint tenant from another housing authority or approved housing body or a member of An Garda Síochána.

14 Pre Tenancy

In the interests of good estate management, an applicant household who is being considered for an allocation of a dwelling provided by the council will be required as a pre-condition of the grant of the tenancy to attend and participate in a pre-tenancy induction.

Appendix 1

Definitions and Interpretation

In this Scheme, unless the context otherwise requires:

A reference to any enactment (whether specifically named or not) or to any section or subsection therein shall include any statutory modifications thereof whether by way of amendment, addition, deletion or repeal and re-enactment with or without amendment for the time being in force and all statutory instruments, orders, notices, regulations and directions for the time being made, issued or given thereunder or deriving validity therefrom.

'Anti-social Behaviour' shall have the same meaning as provided in Section 1(1) of the Housing (Miscellaneous Provisions) Act 1997 (as amended). It includes either or both of the following, namely:

- (a) the manufacture, production, preparation, importation, exportation, sale, supply, possession for the purposes of sale or supply, or distribution of a controlled drug (within the meaning of the Misuse of Drugs Act, 1977 - 2007).
- (b) any behaviour which causes or is likely to cause any significant or persistent danger, injury, damage, alarm, loss or fear to any person living, working or otherwise lawfully in or in the vicinity of a house provided by a Housing Authority under the Housing Acts 1966 – 2014, or Part V of the Planning & Development Act, 2000, or a housing estate in which the house is situated and without prejudice to the foregoing, includes:
 - (i) violence, threats, intimidation, coercion, harassment or serious obstruction of any person
 - (ii) behaviour which causes any significant or persistent impairment of a person's use or enjoyment of his or her homeOr
 - (iii) damage to or defacement by writing or other marks of any property including a person's home.

'Approved Body' means a body standing approved of for provisions of Section 6 of the Housing (Miscellaneous Provisions) Act 1992

'Choice Based Letting' means the procedure set out in Regulations 6 to 11 for determining the individual households that will be considered for the allocation for a bid dwelling.

'Dwelling' as defined in Section 22 (1) of the Housing (Miscellaneous Provisions) Act 2009 shall mean dwellings provided under the Housing Acts 1966 to 2009 or Part V of the Planning and Development Act 2000 of which Clare County Council is owner of, or of which Clare County Council is not the owner but which are provided under a contract or a lease between Clare County Council and the owner concerned, including rental accommodation availability agreements, and dwellings owned and provided by Approved Bodies to whom assistance is given under Section 6 of the Housing (Miscellaneous Provisions) Act 1992 for the purposes of such provision.

'Emergency' shall be an emergency decided as such by the Director of Services, Social Development Directorate Clare County Council or their nominated official whose decision in this regard shall be final

'Homeless' shall have the same meaning as provided in Section 2 of the Housing Act 1988 so that a person shall be regarded by Clare County Council as being homeless for the purposes of this Scheme if

- (a) there is no accommodation available which in the opinion of Clare County Council, (s)he together with any other person who normally resides with him/her or who might reasonably be expected to reside with him/her can reasonably occupy or remain in occupation of, or
- (b) (s)he is living in a hospital, county home, shelter or other such institution and is so living because s(he) has no accommodation of the kind referred to in paragraph (a)

And (s)he is in the opinion of Clare County Council unable to provide accommodation from his/her own resources.

'Overcrowding' shall have the same meaning as assigned to it by Section 63 of the Housing Act 1966, so that a dwelling shall be deemed to be overcrowded at any time when the number of persons ordinarily sleeping in the dwelling and the number of rooms therein either: -

- (a) are such that any two of those persons, being persons of ten years of age or more of opposite sexes and not being persons living together as husband and wife must sleep in the same room, or
- (b) are such that the free air space in any room used as a sleeping apartment for any person is less than four hundred cubic feet (the height of the room if it exceeds eight feet being taken to be eight feet for the purposes of calculation free air space),

and 'overcrowding' shall be construed accordingly.

'RAS tenancy' means a person in receipt of social housing support under a tri party tenancy agreement under the Rental Accommodation Scheme, where Clare County Council undertake a financial role to guarantee rent to the landlord subject to the landlord's compliance with relevant legislation set out in their tenancy agreement, for the duration of the tenancy.

'Scheme' shall mean this Allocation Scheme

'2009 Act' shall mean the Housing (Miscellaneous Provisions) Act 2009 (No. 22 of 2009) as amended, adapted or extended by or under any subsequent legislative enactment.

'Social Housing Support' shall have the meaning assigned to it by Section 19 of the 2009 Act and may include all or any of the following:

- (a) dwellings provided by a housing authority under the Housing Acts 1966 - 2014 or provided under Part V of the Planning and Development Act 2000, other than affordable housing;
- (b) providing assistance under Part 4 of the Housing (Miscellaneous Provisions) Act, 2014
- (c) dwellings provided by an approved body;
- (d) the sale of a dwelling under Section 90 of the Principal Act or the sale of a house under Part 3 of the Housing (Miscellaneous Provisions) Act,

2014

- (e) entering into and maintaining rental accommodation availability agreements;
- (f) the provision of sites for caravans referred to in Section 13 of the Act of 1988 and any accommodation provided to Travellers under the Housing (Traveller Accommodation) Act 1998;
- (g) the provision of sites for building purposes under Section 57 of the Principal Act;

'unfit' shall have the meaning as assigned to it by Section 66 of the Housing Act 1966

Any reference to a clause by number is a reference to that numbered clause as it appears in this Scheme.

The headings to Clauses of this Scheme are for ease of reference only and are not to be used for purposes of construing this Scheme.

Where the context so admits or requires, the masculine includes the feminine and neuter genders and singular includes the plural