

West Lothian Council
Suspension policy



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Section 1:

Introduction

West Lothian Council has established this policy to explain when offers of housing can be withheld and for what periods. In such cases, applicants will, however, remain registered on the common housing register. This policy is based on law and takes account of any relevant guidance, for example, guidance issued by the Scottish Government.

This policy is divided into a number of sections that enable easy updating in the light of changes to law or good practice guidance.

Section 2 explains what we mean by the terms “suspensions”. It also explains what we mean by deferred applications.

Section 3 explains legal and guidance issues that underpin this policy document. Annex 1 describes this framework in more detail.

Section 4 sets out main policy principles that govern our practices.

Section 5 describes our development and training programmes to ensure that we provide a quality service.

Section 6 explains how we monitor our performance in respect of suspensions.

Section 7 outlines the appeals and complaints process that we use regarding suspensions.

Section 8 sets out our commitments relating to consultation and policy review.

Note:

West Lothian Council is referred to generally as “we” throughout this document.



Section 2:

Suspensions of offers and deferred applications

This section describes what we mean when we discuss suspensions and also explains what we mean by deferred applications. There is also an explanation of management issues relating to processing of housing applications.

2.1 What “suspension” of offers means in this policy

The term “suspension” refers to applications that are registered on our housing register, but are not considered for housing offers for specified reasons. The legal grounds on which offers can be suspended are detailed in Appendix I.

2.2 What “deferment” of offers means in this policy

We may defer offers to applicants in certain circumstances, but this process must be distinguished from suspension of offers. For example, deferment of offers will apply if offers cannot be made due to eligibility or preference grounds.

2.2.1 Eligibility grounds

We may defer offers to housing applicants if applicants are not eligible for housing as determined by our allocation policy. For instance, specific types of housing such as sheltered housing can be reserved for people on grounds of age. This housing must be designed and/or specially adapted for people of a certain age group.

2.2.2 Preference grounds

Applicants might register on the common housing register but request not to be made offers in the meantime. Such applications will be deferred until we are notified by applicants that offers are now wanted.

2.3 Management issues

Management grounds exist that can result in delays in offers being made to applicants. For example, if an applicant does not complete application details, we will register the application, but the applicant might not receive all of the points to which she/he is entitled until all relevant information is provided. In these situations, we point housing applications based on the information supplied and then ask applicants to provide any missing information.

2.4 Summary

Offers of housing are withheld if an application is suspended; in such cases, the application remains on the common housing register. The rules governing this process are based on law and guidance.



Section 3:

Legal and good practice framework

This section describes the law and guidance that underpins this policy. This section is written in plain language and is not intended as a precise statement of the law. Annex 1 contains a detailed summary of grounds on which offers of housing may be withheld.

3.1 Legal rules regarding suspension of offers

This section covers:

- rules relating to age and housing lists;
- grounds for suspending offers;
- appeals; and
- good practice guidance

3.2 Rules relating to age and housing lists

In terms of housing law, all applicants for housing may be admitted to our common housing register if they are **sixteen** years old or more. But they are not entitled to register on our common housing register before they reach **sixteen**. If applicants under sixteen apply to register on our common register, we notify them to re-apply when they are sixteen.

3.3 Grounds for suspending offers

We can suspend offers of housing in specific situations. We do this by imposing a requirement:

- that an application must be in force for a minimum period before the applicant is eligible for the allocation of housing; or
- by suspending offers in specific circumstances as mentioned in the policy.

Examples of situations in which this could apply are:

- acting in an anti-social manner towards neighbours; or
- having previously abandoned a council tenancy.

3.3.1 Other legal grounds for suspending offers

There are various other legal grounds that could result in housing offers not being made to applicants. These relate to:

- the legal status of applicants; or
- legal orders.

Legal status of applicants

We meet law concerning asylum seekers and other migrant workers in respect of their entitlement to register on the housing list. If an applicant is not legally entitled to receive an offer of housing, no offer would be made.

3.4 Appeals

Housing applicants are entitled to appeal to the sheriff court when we have imposed a minimum period before offers of housing can be made. We advise applicants of this right when informing them of our decision. In respect of other suspensions, applicants may use our internal appeal system (see section 7).

3.5 Good practice guidance

Good practice guidance explains the type of approach that we should take in terms of implementing our suspension policy practices.

Examples of good practice include:

- assessing each case on merit and taking account of all issues before taking a decision;
- minimising numbers of suspensions applied;
- reviewing suspensions periodically and withdrawing or varying requirements, as appropriate, to shorten periods imposed; and
- informing applicants of their appeal rights.

[The guidance also explains the maximum periods that we can consider when suspending offers of housing.]

3.6 Summary

Our suspension policy is based on law and good practice and seeks to ensure that we minimise numbers of suspensions. We advise applicants whose applications have been suspended of their legal rights to appeal our decision.



Section 4:

Our policy principles

We have established a number of core policy principles that underpin our services in respect of suspensions.

Legal and good practice standards

We meet all relevant legal and good practice standards that relate to suspensions of offers of housing.

Promoting equal opportunities

We promote our equality commitments through this policy by ensuring that information on suspensions is made available in plain language and is accessible to the needs of individual housing applicants.

Deciding to suspend offers of housing

We assess each case on merit and consider all relevant circumstances before applying suspension of offers. In cases where we apply suspensions, we notify applicants of their appeal rights.

Developing partnerships

We work closely with other partner agencies to minimise numbers of suspensions applied. For instance, through establishing support arrangements with other agencies to stop antisocial behaviour, offers of housing might be made and not suspended.

Tenancy options

We consider tenancy options as a way of avoiding suspension of offers to housing applicants, for example, granting short Scottish secure tenancies, with support, to applicants evicted for anti-social behaviour during the last three years.

Advice and information

We advise applicants, in writing, if we intend to suspend offers to them and the maximum time scales that are allowed. This includes giving applicants comprehensive reasons for our actions and what is needed to have a suspension lifted.

Development and training

We provide housing staff that deal with suspensions with comprehensive training on our suspension policy and related procedures.

Managing our performance

We manage our performance by monitoring numbers of suspensions that we apply, as well as reasons for suspensions; this includes monitoring numbers of appeals and their outcomes.

Appeals and complaints

We advise applicants whose offers of housing have been suspended of their appeal rights. This could be to the sheriff court or through our internal appeal system depending on the reason.

Complaints are dealt with in line with our standard complaint policy.

Policy review

We review this policy every three years in consultation with tenants and other service users; this is in line with our tenant participation strategy commitments.



Section 5:

Development and training

We recognise that development and training activities are essential if we are to implement the suspension policy effectively.

5.1 General

We recognise that development and training activities are essential if we are to implement the suspension policy effectively.

We provide staff training on:

- relevant law and good practice relating to suspension of offers to applicants; and
- our suspension policy and procedures.

Actual levels of training vary based on the roles of individual housing staff and are determined by our staff development review process.

We monitor our training regularly to ensure that it promotes the delivery of:

- quality housing services; and
- services that are consistent and promote best value in line with corporate organisational commitments.

5.2 Summary

We provide our housing staff with detailed legal, policy and procedural training so that our suspension policy is implemented effectively. Training also includes information on our performance management methods.



Section 6:

Managing our performance

We monitor the implementation of our suspension policy through a system of performance indicators that include quantitative and qualitative measures.

We monitor the following:

- numbers of suspensions applied;
- period and type of each suspension;
- equality characteristics of applicants (and their households) who are not being made offers by reference to age, disability, race and sex.
- reasons for suspensions;
- reviews of suspensions and the number of suspensions that are lifted or varied;
- numbers of complaints relating to our suspension policy;
- quality of information provided to applicants regarding the suspension policy;
- numbers of appeals made, including outcomes; and
- numbers of deferred applications and by type.

5.2 Summary

We provide our housing staff with detailed legal, policy and procedural training so that our suspension policy is implemented effectively. Training also includes information on our performance management methods.



Section 7:

Appeals and complaints

Applicants whose offers are withheld for the minimum period can appeal this decision to the sheriff court.

If we impose a requirement that an application must be in force for a minimum period before a housing offer can be made, we:

- advise the applicant concerned of their right to appeal this decision to the sheriff court; and
- advise applicants of this right in our allocation pack.

Note:

Appeals against any other suspension are dealt with in terms of our appeal procedure and applicants will be informed of this. Section 3 provides examples of these situations.

We will inform applicants in writing about why and for how long the Council intends to prevent an applicant from receiving an offer.

7.2 Complaints

We have established a separate procedure for addressing complaints raised by housing list applicants.

Applicants may raise complaints if we fail to:

- apply the rules of our suspension policy properly; or
- deliver services in line with our code of practice, including failure to respond to queries against set timescales.

We provide tenants with a copy of our complaints procedure when signing their tenancy agreement. We advise applicants of this procedure should they want to make a complaint.

We also provide information about the Scottish Public Services Ombudsman; this Office deals with complaints involving maladministration. Applicants must generally use our internal complaints system before contacting the Ombudsman.

7.3 Summary

In line with council policy, we provide information to housing applicants regarding their options if they are dissatisfied with our decisions. This supports council policy of promoting the rights of individuals to seek independent advice and information and to protect their human rights to a fair hearing.



Section 8:

Reviewing policy

We review our suspension policy every three years, or as otherwise required. For instance, we might need to review the policy following any changes in law or good practice guidance.

8.1 General

We consult with tenants and other service users concerning policy changes through our tenant participation strategy.

We provide information to tenants and service users about the effectiveness of this policy; this information is derived from our performance management system.

8.2 Review methods

We use a range of methods as detailed in our tenant participation strategy when reviewing our suspension policy.

8.3 Summary

Our policy review procedures are based on standard practice as applied to all housing policies. This ensures that the suspension policy is scrutinised regularly against law and guidance and takes account of the views of tenants and other service users.



Appendix I:

Law and good practice guidance framework

This section summarises housing law relating to suspensions and related good practice guidance. In particular, it sets out the grounds on which suspensions might be applied.

The Housing (Scotland) Act 1987 (as amended)

Determination of minimum period for application to remain in force

Except in cases where the Council has a duty to the applicant to secure accommodation where the applicant is homeless, the Council may impose a requirement that an application must have remained in force for a minimum period before the applicant is eligible for the allocation of housing if before making that application any of the circumstances set out below apply:

- acting in an antisocial manner relating to another person residing in, visiting or otherwise engaged in lawful activity in the locality of a house occupied by the applicant;
- pursuing a course of conduct amounting to harassment of such other person, or a course of conduct which is otherwise antisocial conduct in relation to such other person;
- acting in an antisocial manner, or pursuing a course of conduct which is antisocial conduct, in relation to an employee of the Council in the course of making the application;
- having been convicted of the following offences or where the person has resided with a person convicted of the following offences:-
 - (i) using a house or allowing it to be used for immoral or illegal purposes, or
 - (ii) an offence punishable by imprisonment which was committed in, or in the locality of, a house occupied by the person;
- having had their tenancy terminated by the landlord under Section 18(2) of the Housing (Scotland) Act 2001 (repossession where abandoned tenancy);
- having had their interest in a tenancy terminated by the landlord under section 20(3) of the Housing (Scotland) Act 2001 (abandonment by joint tenant);
- having been a tenant in a house in relation to which a court has ordered recovery of possession on the ground set out in paragraph 3 or 4 of Schedule 2 to the Housing (Scotland) Act 2001;
- having any outstanding debt (for rent or otherwise) in relation to the person's tenancy except in specific circumstances (see note);
- having an order of recovery, that is, eviction order granted against her/him;
- knowingly or recklessly making a false statement regarding their housing application for the common housing register.

Note:

Debt that is related to a tenancy cannot be taken into account if (a) the debt is not more than one twelfth of the annual amount payable, or (b) if more than one month, where a payment arrangement has been kept to for at least 3 months and the applicant is continuing to make agreed payments.

In the case of housing debt that is no longer outstanding, this cannot be taken into account if (a) the debt was not more than one twelfth of the annual amount payable at any time while it remained outstanding, or (b) if more than one month, where a payment arrangement has been kept to for at least 3 months and the applicant is continuing to make agreed payments.

Example: *A tenant owes more than one month's rent, but does not keep an arrangement to repay the debt for at least three months; this would be grounds for not making an offer.*

Example: *A former tenant owed two months rent but did not make an arrangement to repay the debt that was kept to for at least three months but has since repaid the debt; this would be grounds for making an offer.*

Other Suspensions

In the case of any other suspensions, the Council may impose a suspension if any of the circumstances set out above apply at any time except for the following:

The ground relating to debt which is no longer outstanding does not apply in the case of other suspensions.

Homeless applicants

In terms of our homelessness policy, if a homeless applicant has refused their permanent offer and it was deemed a reasonable offer, no further offer will be made except in cases where there is a successful appeal. Offers in relation to homeless applicants will be dealt with through the Council's homeless appeals process.

Where applicants agree to deferment, we may also defer offers to applicants who have been assessed as statutory homeless if applicants are:

- unable to sustain permanent accommodation; and
- require support in order to prepare them for living in permanent accommodation.