

To Each Member of the Housing SPC Galway City Council

Item no. 8 of the SPC Meeting of Galway City Council May 26th 2023

Proposed Amendments to Scheme of Letting Priorities / Allocations Scheme 2017(as amended 2018)

I refer to the Scheme of Letting Priorities / Allocations Scheme adopted by the elected members of Galway City Council on the 10th July 2017 (amended 2018) and wish to outline the following two proposed amendments to be considered by Council.

The adoption of, and amendment to an Allocation Scheme is a reserved function of the elected members. The proposed amendments are to be considered by the Housing & Social Inclusion SPC at their meeting on May 26th 2023.

Proposed amendment to Section 10.8

Current Wording :

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 tenant for the 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 Galway City Council may in its absolute discretion consider granting a tenancy to such person, either in the same dwelling or in suitable alternative dwelling provided the allocation has no adverse implications for the good use of the housing stock. (c) voluntarily surrendered, within the previous two years, a local authority, approved housing body or Rental Accommodation Scheme tenancy, for a minimum period of two years.

New proposed wording to replace the above – Section 10.8 as approved by Blake and Kenny.

10.8 In cases of Legal Guardianship-It may be appropriate in exceptional circumstances to grant a new tenancy following the death of a sole tenant to a person who is the Legal Guardian of the tenant's minor children and who does not have a legal right to succeed to the tenancy.

The applicant , must show that they have been living with the tenant , with the consent of Galway City Council , prior to the tenant's death, for the purpose of providing care for the tenant, and/or the tenants minor children and that there is now a need to live with the children in order to fulfil

the role of Guardian in order to care for the minor children. Galway City Council may in its absolute discretion consider granting a tenancy to such person, either in the same dwelling or in suitable alternative dwelling provided the allocation has no adverse implications for the good use of the housing stock.

This Amendment is urgent in order to address a number of situations that have arisen where Illegal occupiers have vigorously contested Possession Orders while relying on this above clause to remain in the property. The Defending Solicitor criticised the above clause for being unclear and misleading.

Add new clause 10:12; Succession.

Clause 10:12

In all cases of claims for succession to tenancy, there will be an assessment and approval process undertaken in advance of any decision made by Galway City Council. It will be necessary that the applicant(s) have been included in the family household details for rent assessment purposes for the requisite period of two years as outlined in Clause 10.4 . No application will be considered where this condition is not complied with.

Issues are continually arising where extended family members move into Local Authority dwellings shortly before the death of a tenant and seek succession of the tenancy when the tenant passes away.

These family members do not satisfy the Succession criteria as set out in our Scheme of Letting Priorities.

Remove Section 12.4 -Tenant Purchase Legislation 2021 - S.I. No. 776/2021 has made this clause redundant

In the current Scheme of Letting Priorities Section 12.4 states:

12.4 Galway City Council will consider Joint Tenancy requests from adult children residing with a parent for the purposes of the Tenant Incremental Purchase Scheme, under the following circumstances:

(a) A formal written application for Joint Tenancy must be made to Galway City Council. The application must be made jointly by the Tenant and the proposed Tenant and must coincide with a Tenant Incremental Purchase Scheme application. Applications will not be considered where they are made in the absence of an application for Tenant Purchase.

(b) The Joint Tenancy application will be processed alongside the Tenant Purchase application. If for some reason, the Tenant Purchase application does not proceed, Joint Tenancy will not be granted.

(c) Applications will only be accepted for properties eligible for sale under the Tenant Purchase Scheme. The terms and conditions of the Tenant Purchase Scheme in place at the time of application are applicable.

(d) The applicant must demonstrate that:

(i) they have been resident in the dwelling for at least two years

(ii) they are an approved member of the tenant's household and included on the rent declaration form in respect of the dwelling for their period of residence at the property.

(iii) 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

(iv) they have not engaged in anti-social behaviour in accordance with the terms of Galway City Councils Anti- Social Behaviour Policy

(v) 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

In these circumstances, Galway City Council may grant a Joint Tenancy to facilitate the purchase of a property under the Tenant Purchase Scheme.

It is proposed, to remove this entire Clause 12.4 (above) from the current Scheme in to ensure the Scheme is aligned with current Tenant Purchase Legislation. An applicant seeking to purchase a Local Authority property must now be in receipt of Social Housing for 10 years. This entire clause 12.4 is now redundant and ultra vires.

This is the new Legislation:

S.I. No. 776/2021 - Housing (Sale of Local Authority Houses) (Amendment) Regulations 2021 has made this clause redundant.

2. The Housing (Sale of Local Authority Houses) Regulations 2015 (S.I. 484 of 2015) are amended -

(a) in Regulation 5 –

(i) in paragraph (1), by substituting “ten years” for “one year”, and

(ii) in paragraph (2), by substituting “both of the tenants” for “one of the tenants”,

The above legislation means that both the tenant and any Joint tenant must to be in receipt of Social Housing Support for 10 consecutive years in order to qualify for the Tenant Purchase Scheme. Social Housing is defined as HAP/RAS or a Council Tenancy for 10 years. It does not include rent supplement, which is a temporary measure. Therefore Clause 12.4 is now redundant and needs to be removed from the Scheme of Letting Priorities.

Signed:

Brian Barrett
A/Director of Services,
Housing, Social Inclusion.

