



Comhairle Cathrach na Gaillimhe
Galway City Council

Scheme of Letting Priorities

July 2017

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TABLE OF CONTENTS

Section	Page No.
1. Introduction	3
2. Scope	4
3. General	4
4. Reservation of Dwellings	8
5. Matters Disregarded	8
6. Deferral or Refusal of Applications	9
7. Refusal by Applicants of Offers of Social Housing	11
8. Choice Based Letting (CBL)	12
9. Priorities for Transfers for Local Authority and Approved Housing Body Tenants	13
10. Succession to Tenancies	14
11. Succession in Other Circumstances	16
12. Permission to reside as an occupant in Council dwellings	17
13. Elderly Property Owners / Vacant Homes	19
14. Estate Management and Pre-Tenancy Training	19
15. Interpretation	19

**COMHAIRLE CATHRACH NA GAILLIMHE
GALWAY CITY COUNCIL**

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)**

Effective from 10th July 2017

1. Introduction

- 1.1** Part 2 of the Housing (Miscellaneous Provisions) Act 2009 as amended by the Housing (Miscellaneous Provisions) Act 2014 sets out the functions of housing authorities. Chapter 3 of Part 2 of that Act and the Housing Allocation Regulations 2011 sets out the legal framework for the allocation of dwellings by housing authorities.
- 1.2** This Allocation Scheme sets out the priorities and procedures for allocating dwellings to which section 22 of the Housing (Miscellaneous Provisions) Act 2009 applies as agreed by the Elected Members of Galway City Council. The Scheme recognises the need to achieve a balance in allocating dwellings between the needs and preferences of applicants, the wellbeing of existing tenants and the community as a whole, and the need to make the best use of publicly funded resources.
- 1.3** In performing its housing functions, Galway City Council (hereinafter ‘the Council’) is obliged to have regard to the need to
- (a) counteract undue segregation in housing between persons of different social backgrounds, and
 - (b) ensure that a mixture of dwelling types and sizes and of classes of tenure is provided to reasonably match the requirements of households.
- 1.4** This Scheme is also aligned to other housing services plans and strategies. For example, the Scheme aims to promote the objectives contained in Galway City Council’s Housing Services Plan and Homeless Action Plan as well as its Anti-Social Behaviour Strategy and Disability Strategy.
- 1.5** Galway City Council will also comply with any general policy directions and have regard to any guidelines issued by the Minister for Housing, Planning and Local Government to housing authorities in relation to the performance of their functions under the Housing Acts 1966 to 2014.
- 1.6** Galway City 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:

- (a) dwellings provided under the Housing Acts 1966 to 2014 or Part V of the Planning and Development Act 2000 that are owned by the Council;
- (b) dwellings that are not owned by Galway City Council but which are held by Galway City Council under a contract or lease between Galway City Council and the owner concerned, including rental accommodation availability agreements, and
- (c) dwellings owned and provided by Approved Housing 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 in the allocation of dwellings to

- (a) households or particular classes of households who have been assessed under section 20 of the 2009 Act as being qualified for social housing support, and
- (b) households in receipt of social housing support that have applied to Galway City Council, to transfer to another dwelling or to purchase a dwelling under Part 3 of the 2009 Act (Incremental Purchase Scheme) and Galway City 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 Galway City Council's functional area to be reserved for all or any of the following purposes:

- allocation to particular classes of household;
- particular forms of tenure;
- allocation to households transferring from other forms of social housing support.

2.4 The Scheme also sets out the requirements for transfers by tenants and succession to tenancies.

3. General

3.1 **Age:** An applicant applying for the allocation of a dwelling under this Scheme must have reached the age of 18 years on or before the date of any allocation and must have a legal right to reside in the State.

3.2 **Eligibility:** Households must also comply with the eligibility criteria as set out in the Housing Acts 1966 to 2014, the Social Housing Assessment Regulations 2011 and the Social Housing Assessment (Amendment) Regulations 2011.

3.3 **Application and Additional Information:** Applicant households must complete in full the prescribed application form provided by Galway City Council and

must, within 4 weeks of being requested to do so by Galway City Council, submit any additional information including documents and other particulars that Galway City Council may reasonably request for the purposes of verifying information relating to their applications. Upon request for stated reasons Galway City Council may agree to an extension of this 4 week period.

- 3.4 *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 residing or to reside with the applicant, etc.), it is the household's responsibility to inform Galway City Council of any such change. Galway City Council will review the household's application following any such notification and receipt of documentation.
- 3.5. *Personal Data:*** All Application Forms (including transfer applications and succession application and for permission to reside) require applicants to furnish written authority to enable Galway City Council to access or obtain information held by other housing authorities, approved housing bodies, the Health Service Executive and An Garda Síochána which in Galway City Council's opinion is relevant to the applicant's application. Galway City Council processes personal information received in line with data protection legal requirements.
- 3.5** (a) Personal data of applicants will be shared between Galway City Council and Galway County Council where an applicant states an area of choice in Galway County Council's functional area and where an applicant states an area of choice in Galway City Council's functional area. Personal information will only be accessed in connection with the purposes for which it has been provided for i.e. it will only be used for official purposes.
- 3.6 *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 functional area of Galway City Council. The total number of areas of choice specified on the application form shall not exceed 3. A qualified household may notify Galway City 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 Galway City Council,
 - (b) where a household notifies Galway City 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 3. The areas of choice for Galway City Council are Galway City East, Galway City West and one area in Galway County.
- 3.7 *Housing Need:*** Housing need refers to standards that Galway City Council uses to assess a household's housing circumstances. In determining housing

need, Galway City Council will have regard to the following matters relating to the household's current accommodation—

- whether it is an institution, emergency or emergency transitional accommodation or a hostel
- whether it is overcrowded within the meaning of section 63 of the Act of 1966,
- its fitness for human habitation, having regard to the matters set out in the Second Schedule to the Act of 1966
- the extent to which it meets any accommodation requirement arising from the enduring physical, sensory, mental health or intellectual impairment of a household member
- where it is shared with another household, whether the household that has applied for social housing support has a reasonable requirement for separate accommodation, and
- whether it is unsuitable for the household's adequate housing—
 - (i) in any other material respect, having regard to particular household circumstances, or
 - (ii) on exceptional medical or compassionate grounds.

Households must notify Galway City Council of any change in circumstances that might affect their eligibility for a dwelling as soon as may be, but not later than 2 weeks immediately following any such change in circumstances. If a household fails to notify Galway City Council of such change in circumstances any offer of accommodation made by Galway City Council will be invalid and the offer withdrawn.

3.8 *Type of dwelling:* Households may indicate the type of dwelling property required. However, it should be noted that dwellings are allocated to match household size. Galway City Council will determine the family composition for a vacant dwelling as part of the allocation process to ensure the best use is made of the dwelling in terms of the size of the dwelling and the size of the prospective household so as to ensure that a dwelling is not under occupied or overcrowded. Galway City Council typically allows bedrooms for persons named on the household application. However, 2 bedroom units maybe allocated to singles due to personal circumstances.

3.9 *Order of priority for dwelling allocations:* Galway City Council will give reasonable preference to certain household groups when allocating dwellings. The household groups and the order of priority that will be given to the household groups are as follows:

- (a) homeless persons as defined by section 2 of the Housing Act, 1988
- (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.
- (c) persons living in overcrowded accommodation within the meaning of section 63 of the Housing Act, 1966.
- (d) 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;
- (e) persons who require accommodation on medical or compassionate grounds
- (f) persons who are not, in the opinion of Galway City Council, reasonably able to meet the cost of the accommodation which they are occupying or to obtain suitable alternative accommodation.
- (g) persons not included in any other specific category above, who have been assessed and approved for social housing supports.

The priority that an application will receive will depend mainly on the priority afforded to each household group. Households are placed in one group only. As a general rule, priority as between households within the same group will be determined by reference to the date of entry of the household on Galway City Council's record of qualified households. In the allocation of dwellings where priority is claimed on grounds consisting of, or including, medical grounds, Galway City Council will require a report from a medical practitioner accredited by the Health Service Executive. Accordingly;

- Where priority is claimed on disability grounds the applicant shall submit a report from an Occupational Therapist on their disability condition and how this impacts on their housing requirements.
- Where priority is claimed on Medical Grounds, the applicant shall submit a report from a Consultant on their medical condition and how this impacts on their housing requirements.

3.10 *RAS tenants:* Qualified households who availed of the Rental Accommodation Scheme (RAS) prior to the 1st April, 2011 will remain on Galway City Council's record of qualified households pending the allocation of a dwelling to which section 22 of the Act of 2009 applies in accordance with this Scheme.

3.11 *Housing Assistance Payment Scheme (HAP):* In accordance with the Housing (Miscellaneous Provisions) Act 2014, housing assistance (HAP) is considered a form of social support and consequently households are not eligible to remain on the main housing waiting list once housed under HAP. However, acknowledging that households on the waiting list who avail of HAP might have expectations that they would receive a more permanent form of social housing support, HAP recipients can avail of a move to other forms of social housing support through a transfer list. All HAP recipients who choose to do so may apply to be placed on this transfer list. In applying to be placed on the transfer list, Galway City Council shall not impose a minimum time in HAP accommodation as a criterion for access to the transfer list. For those HAP recipients who come directly off the waiting list into HAP, and who subsequently apply to transfer to other forms of social housing support, the transfer list should reflect the specific priority that the household had on the main housing waiting list within the local authority area in which they are resident. That is, they should retain the time they spent on the waiting list, once on the transfer list, and therefore be placed on the transfer list with no less favourable terms than if they had remained on the main waiting list.

4. Reservation of Dwellings

- 4.1** Galway City 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
- Persons aged 60 years and over
 - persons with a physical, sensory, mental health or intellectual impairment
 - young persons leaving institutional care
 - persons who are homeless
 - persons in need of accommodation for medical or compassionate reasons or
 - any other class or classes of persons for whom Galway City Council in its discretion considers it prudent to provide accommodation.

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. The designation of dwellings for this purpose shall be by way of Chief Executive's Order. Priority will be determined to households in this category by the length of time that the household has been entered on Galway City Council's housing waiting list.

- 4.2** Galway City Council will from time to time, as it considers appropriate, designate a particular number or proportion of dwellings for allocation to households transferring from other forms of social housing support. Where a particular number or proportion of dwellings is set aside or designated for this particular category of households, priority shall be accorded to this particular category in the allocation of those dwellings. The order of priority will be determined in accordance with paragraph 9 below. The designation of dwellings for this purpose shall be by way of Chief Executive's Order.

- 4.3** Galway City Council will from time to time, as it considers appropriate, designate a particular number or proportion of dwellings for particular forms of tenure including but not limited to Incremental Purchase Schemes. The designation of dwellings for this purpose shall be by way of Chief Executive's Order. Priority will be determined to households in this category by the length of time that the household has been entered on Galway City Council's record of households that have applied to purchase a dwelling under Part 3 of the 2009 Act and obtained Galway City Council's consent to such purchase.

5. Matters Disregarded

- 5.1** Galway City Council in applying the terms of this Scheme may disregard the accommodation that an applicant is occupying where there is reason to believe that the applicant 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 they are so occupying is less suitable for their adequate housing than other accommodation which it would have been, or would be, reasonable for them to occupy.
- 5.2** Where a household specifies an area of choice in the functional area of a housing authority from which the household does not qualify for social housing support, Galway City Council will disregard that area of choice and the 12-month period

in paragraph 3.6 (a) above shall not apply to the specification by the household of another area of choice in its stead.

5.3 Galway City Council will disregard the order of priority given to a household under this Scheme where

- the household is being provided with social housing support in a dwelling let under a rental accommodation availability agreement,
- arising from specified exceptional circumstances, including displacement due to fire, flood or any other emergency, development, redevelopment or regeneration of an area by Galway City Council
- on exceptional medical or compassionate grounds
- to counteract social segregation
- where Galway City Council has assessed that a person's accommodation needs cannot appropriately be met at that point in time through independent living
- former tenants who breached the terms of a previous tenancy with Galway City Council or any other housing authority or any approved housing body or a tenancy made pursuant to the rental accommodation scheme
- in emergency situations.

6. Deferral or Refusal of Applications

6.1 Notwithstanding anything contained in the Housing Acts 1966 to 2014 or in this Scheme, Galway City Council may in accordance with the provisions of Section 14 (1) (b) of the Housing (Miscellaneous Provisions) Act 1997 (as amended), refuse to allocate or defer the allocation of a dwelling, to a housing applicant where:

- (a) Galway City Council considers that the applicant 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 letting to that applicant would not be in the interest of good estate management, or
- (b) the applicant fails to provide information, including information relating to persons residing or to reside with the applicant, requested by Galway City Council and which Galway City Council considers relevant in connection with an allocation.
- (c) The applicant causes or attempts to cause any threat, intimidation or harassment, coerces, obstructs, impedes, or interferes with, an officer of Galway City Council or a member of the family of such officer or employee or any person who provides or is to provide evidence in any proceedings under the Housing Acts.

6.2 Notwithstanding anything contained in Part 3 of the 2009 Act, Galway City Council may refuse to sell a dwelling to an eligible household (under Part 3 of the 2009 Act) where Galway City 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 Galway City Council will not allocate a dwelling to a qualified household where a household member;

- (a) damaged a dwelling previously provided by any housing authority or approved housing body and neither repaired the dwelling nor paid for the cost of repairing the dwelling unless and until the cost of repairing the dwelling has been paid to the housing authority or approved housing body concerned or the household member has entered into an arrangement with the housing authority or approved housing body concerned for the payment of such moneys, as the case may be;
- (b) was previously a tenant of a dwelling provided by a housing authority or approved housing body 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 or approved housing body for the payment of such moneys;
- (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.

6.4 Galway City Council will not allocate a dwelling to a household where a household member has breached the terms of the tenancy agreement in consequence of which a housing authority or an Approved Housing Body has obtained an order for possession of the dwelling.

6.5 Galway City Council will not allocate a dwelling to a household that:

- refuses to furnish any information requested by Galway City Council which is reasonably required either for the purpose of assessing the housing application or for estate management purposes.
- 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 Galway City Council for estate management purposes
- provides false or misleading information either on the application form or at subsequent interviews.

6.6 Galway City Council will take appropriate steps in accordance with law to prevent the illegal occupation of Council dwellings. In the event of illegal occupation, Galway City Council will take all necessary measures to recover possession of the dwelling. Galway City Council will not allocate a dwelling to a household that is illegally occupying a dwelling provided by Galway City Council or any part thereof whether continuously or otherwise.

- 6.7** Where Galway City 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.
- 6.8** 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 Galway City Council in the same condition as prior to the commencement of the illegal occupation or has paid to Galway City Council any damage caused to the dwelling during the period of their illegal occupation.
- 6.9** All deferred applications will be reviewed by Galway City Council when a relevant change in circumstances is notified by the household applicant to Galway City Council and in any event no later than 12 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 2 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 Galway City Council for the allocation of a dwelling to which section 22 of the Act of 2009 applies and 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 by Galway City Council will be deemed reasonable where, in the opinion of Galway City Council, the dwelling offered meets the accommodation needs and requirements of the household and the dwelling is situate in an area of choice specified by the household.

The only exception to this is where Galway City Council offers to allocate a dwelling to a household which has been housed in emergency homeless accommodation, displaced due to fire, flood or other emergency, development, redevelopment or regeneration of a housing area or on exceptional medical or compassionate grounds. In such circumstances, Galway City Council does not have to offer the household accommodation in any of their areas of choice for it to be considered a reasonable offer.

- 7.3** Refusal of offers of accommodation under RAS and or Long Term Leasing and with Approved Housing Bodies will be treated by Galway City Council as a refusal of accommodation.
- 7.4** Refusal of offers of accommodation from those temporarily housed in emergency homeless accommodation will be treated by Galway City Council as a refusal of accommodation regardless of area of choice.

- 7.5 The final decision in relation to any allocation of a dwelling will be made by the Director of Service, Housing & Social Inclusion in pursuance of the authority delegated by Order of the Chief Executive or by any other person so delegated.

In making this decision, the Director of Services, Housing & Social Inclusion or any other person so delegated shall have regard to all information furnished by the household in support of his application together with all other information relevant thereto known to the Director of Services, Housing & Social Inclusion or any other person so delegated including the household's waiting time on Galway City Council's social housing support waiting list or transfer waiting list, stated preference area(s), family size and type of dwelling required and available for allocation.

8. Choice Based Letting (CBL)

- 8.1 **Choice Based Letting (CBL)** is provided for under Regulations 6 – 11 of the Social Housing Allocation Regulations 2011. Galway City Council will operate a Choice Based Letting scheme (CBL) to enable households qualified for the full range of Social Housing Supports on Galway City Council's housing waiting list, to exercise greater choice and involvement in selecting a new home. Dwellings owned by Galway City Council and provided for under the Housing Acts 1966 to 2014 or Part V of the Planning & Development Act 2000, and Approved Housing Body Stock for which Galway City has nomination rights may be allocated through Choice Based Letting. However, not all such dwellings becoming available for letting will be offered through CBL. In particular, sheltered housing units, elderly person dwellings and specially adapted wheelchair accessible dwellings will 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 Chief Executive Order. Subject to the making of a fresh determination of the household's qualification for social housing support and to good estate management, the allocation of a CBL will be made to the applicant household whose position is highest in accordance with this Allocation Scheme of those expressing an interest in the CBL dwelling.

- 8.2 **Refusal of a CBL:** Where a household refuses a reasonable offer of the allocation of a bid 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. A refusal by a qualified household of an offer of the allocation of a bid dwelling made under a CBL scheme shall not constitute a refusal under paragraph 7.1 above. However, the applicant household cannot bid for another CBL dwelling for 1 year in accordance with regulation 10(1).

- 8.3 The Council may, at its discretion, and at any stage prior to allocating a bid 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. Priorities for Transfers for Local Authority and AHB Tenants

- 9.1** Galway City Council has a transfer list that consists of existing tenants, including tenants of dwellings provided under the Rental Accommodation Scheme (RAS) and tenants of Approved Housing Bodies wishing to move to another dwelling.
- 9.2** Galway City Council will consider applications from all such tenants, including tenants of dwellings that may be provided under rental accommodation availability agreements. Galway City Council will give reasonable preference to certain groups of transfer applicants and the order of priority to be given to these groups are as follows:
- (i) households whose current accommodation is unfit or 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;
 - (ii) households whose current accommodation is overcrowded within the meaning of section 63 of the Act of 1966
 - (iii) households who are under utilising current accommodation
 - (iv) 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
 - (v) households who need to move for exceptional medical or compassionate reasons
 - (vi) households whose current accommodation is unsuitable for the household's adequate housing needs in any other material respect
 - (vii) households who need to move to another locality where failure to meet that need would give rise to hardship to the household or to others
 - (viii) households seeking to enter into an incremental purchase arrangement with the consent of Galway City Council
- 9.3** 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 Director of Services, Housing & Social Inclusion or 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.
- 9.4** Priority will be determined to households in this category by the length of time that the household has been entered on Galway City Council's record of households that have applied to transfer to another dwelling to which section 22 of the Act of 2009 applies and have obtained Galway City Council's consent to such transfer and the availability of suitable units.
- 9.5** Prior to the allocation of a dwelling on foot of a request for a transfer, Galway City 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 allocation;
- (c) The household must have a clear refuse and service charge account (if any) on the date of allocation;
- (d) The household's existing dwelling must be maintained in a manner satisfactory to Galway City Council;
- (e) The household must be compliant with all the conditions of its existing tenancy agreement;

9.6 HAP (Housing Assistance Payment) recipients will be progressed to other forms of social housing support in accordance with their priority and time spent on the Local Authority's housing list and subject to application to transfer.

9.7 Refusal of offers of a transfer from social housing supports will be treated by Galway City Council as a refusal of accommodation.

Where a qualified household refuses 2 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 Galway City Council for the allocation of a dwelling or may not be considered for any further transfer.

10. Succession to Tenancies

10.1 When a Council tenant who is a sole tenant passes away 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 Galway City 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 together with a completed housing application to assess eligibility for social housing. Galway City Council may grant an extension of time in special circumstances.

10.2 Applicants must furnish any additional information including documents and other particulars that Galway City Council may reasonably request for the purposes of verifying information relating to their application.

10.3 On receipt of a succession application, Galway City Council will assess the application to determine whether or not the applicant has a right to succeed to the tenancy and will be subject to Garda vetting.

- 10.4** In order to succeed to the tenancy of a deceased tenant, an applicant must be able to demonstrate to the satisfaction of Galway City 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 or throughout the time of the tenancy if the tenancy has been in existence for less than two years.
 - (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
 - (c) that they were an approved member 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 Galway City 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 a 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 or whose tenancy was terminated due to a breach of the tenancy agreement or has been involved in illegal or anti social behaviour activities in any property provided by Galway City Council, or any Local Authority or an 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 Galway City 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, Galway City Council will grant the tenancy to the eldest qualifying member of the household.
- 10.7** Where a household member is eligible to succeed to a tenancy on the death of the previous tenant and the dwelling is in the opinion of Galway City 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, Galway City 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 dwellings for many years, Galway City Council will seek to recover possession of under-occupied dwellings 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** 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.

- 10.9** Under some circumstances where succession is being considered by the City Council, as part of the succession application, the Council may require the applicant to move to another property if it considers the property too large or has been designed and adapted for someone with a physical disability who no longer resides in the property. This may apply despite the applicant possibly having lived in the property for many years. This is necessary to ensure the best use of housing stock and is particularly important in areas of high housing demand.

- 10.10** 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 an elderly person. Galway City Council may in its absolute discretion consider granting a tenancy in suitable alternative dwelling provided the allocation has no adverse implications for the best use of the housing stock.

- 10.11** Each succession application will be examined on its own merits and applications will be considered where the above conditions have been complied with.

- 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 Section 10.4. No application will be considered where this condition is not complied with.

11. Succession in Other Circumstances

- 11.1** In cases where a joint tenant of a dwelling provided by Galway City Council vacates the dwelling and ceases to reside in the dwelling for a period of at least one year, the Director of Service, Housing & Social Inclusion after due consideration of all the known and relevant circumstances (including the non payment of rent by that joint tenant) will approve the allocation of the dwelling to the remaining joint tenant as sole tenant provided the joint tenant who has

remained residing in the dwelling serves on Galway City Council a notice to quit terminating the joint tenancy provided the dwelling is not under-occupied.

11.2 In cases where there is an existing tenancy of a dwelling provided by the City Council to tenants who are married but who have executed a deed of separation or obtained a decree of judicial separation, Galway City 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, Galway City Council will give effect to any order transferring the tenancy to a sole tenant provided a certified true copy of the court order is produced.

11.3 In cases where the sole tenant vacates a dwelling provided by Galway City Council, leaving a spouse, co-habitant or civil partner in occupation of the dwelling, the Director of Services, Housing & Social Inclusion after due consideration of all the known and relevant circumstances will 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 two 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 resided in the dwelling with the tenant with the permission of the City Council for a period of at least 2 years 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 Housing (Miscellaneous Provisions) Act, 2009 and the Social Housing Assessment Regulations.
- (e) the remaining spouse, co-habitant or civil partner will be subject to Garda vetting.

12. Permission to reside as an occupant in Council dwellings

12.1 The prior written consent of Galway City Council is required where a tenant wishes to have a person 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 resident having regard to the number of persons in occupation of the dwelling with the tenant;
- (e) The proposed resident's ability to provide housing from his or her own financial resources;
- (f) The proposed 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 residents suitability as an occupier.

Where Galway City Council 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 resident reside with the tenant does not confer an automatic right on the proposed resident to succeed to the tenancy in the dwelling and confers no entitlement whatsoever on the proposed resident to any interest in the dwelling. Upon the tenant ceasing to hold the tenancy either through surrender, termination or otherwise, the approved resident may be required to vacate the dwelling.
- 12.3** The granting of permission to the tenant to have the proposed 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 tenant obtaining independent legal advice prior to the execution of either a Carer's Agreement or a Residency Agreement as the case may be and producing same to Galway City Council together with a certificate from the tenant's solicitor so confirming.

13. Elderly Property Owners / Vacant Homes

Housing applications and/or applications for permission to reside from elderly persons who are owners of sub-standard, unsuitable private dwellings and who are unable to improve their standard of accommodation from within their own resources, may be considered for tenure of a local authority or Approved Housing Body house subject to the following conditions:

- a) The Council is given the option to purchase their existing dwelling at a cost of 50% of the market value.
- b) If the Council do not wish to acquire the dwelling, the dwelling will be sold on the open market by the applicant and 50% of the sale proceeds will be paid to the Council.

Both parties will be required to obtain their own separate independent valuations in relation to option (a) above. The applicant will nominate a selling agent in relation to option (b). The applicant will also be required to obtain independent legal advice before entering into any such agreement with the Council.

14. Estate Management and Pre-Tenancy Training

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

15. Interpretation

In this Scheme, unless the context otherwise requires:-

A reference to any enactment (whether specifically named or not) or to any section or sub-section 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.

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

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

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

‘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 Acts, 1977 to 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 to 2014 and part V of the Planning and Development Act 2000, or a housing estate in which the house is situate or a traveller halting site and, without prejudice to the foregoing, includes

violence, threats, intimidation, coercion, harassment or serious obstruction of any person behaviour which causes any significant or persistent impairment of a person’s use or enjoyment of his or her home, or damage to or defacement by writing or other marks of any property, including a person’s home.

‘bid dwelling’ means a dwelling that has been designated for choice-based letting

‘choice based letting’ means the procedure set out in Regulations 6 to 11 of the Social Housing Assessment Regulations 2011 for determining the individual households that will be considered for the allocation of a bid dwelling

‘emergency’ is an emergency decided as such by the Director of Service, Housing & Social Inclusion or his nominated official whose decision in this regard shall be final

‘overcrowding’ is to be construed in accordance with 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 in the dwelling 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 calculating free air space.

‘RAS tenant’ means the tenant of a dwelling which is the subject of a rental accommodation scheme

‘Scheme’ means this Allocation Scheme.

‘the 2009 Act’ means the Housing (Miscellaneous Provisions) Act 2009 (No. 22 of 2009)

‘social housing support’ has the meaning assigned to it by section 19 of the 2009 Act

‘unfit’ has the meaning assigned to it by section 66 of the Housing Act 1966

HAP (Housing Assistance Payment) has the meaning assigned to in the Housing Act 2014