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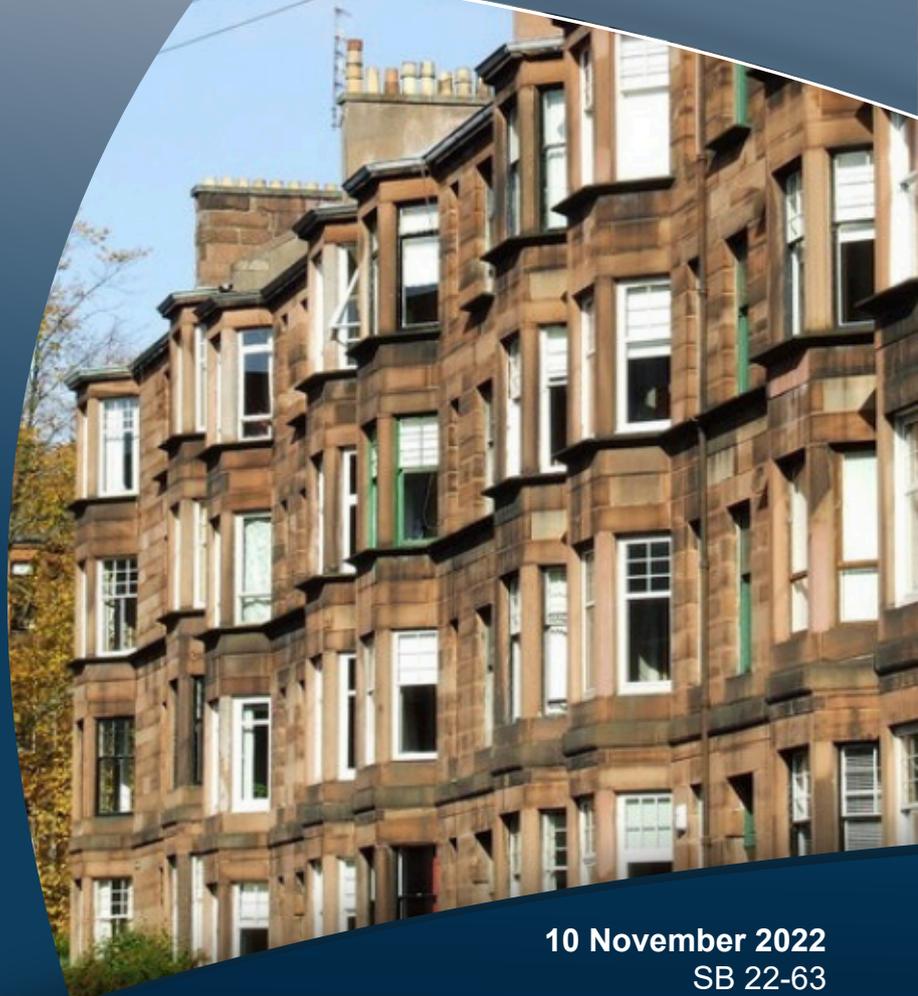
SPICe Briefing

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# Frequently asked questions: allocation of social rented housing

Laura Haley

This briefing provides answers to some frequently asked questions (FAQs) about the allocation of social rented housing.



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# Summary

This briefing provides answers to some frequently asked questions (FAQs) about the allocation of social rented housing. It covers the legislative framework, how housing allocation policies work in practice and how social housing policies interact with homelessness legislation.

# Background Information

This section provides information on:

- [what is social rented housing?](#)
- [which legislation governs the allocation of social rented housing?](#)

## What is social rented housing?

Social rented housing is the name given to housing that is provided by local authorities and registered social landlords (RSLs). Social rented housing aims to be more affordable than private renting, and to provide secure, long-term tenancy options.

In Scotland around 23% of homes are social rented homes.<sup>1</sup>

Social landlords have a limited stock available to them and need to make decisions about who to allocate this to. Each social landlord publishes a [policy](#) that sets out how their housing stock is allocated to those on the [allocation list](#).

## Which legislation governs the allocation of social rented housing?

The law on social housing allocations is set out in the [Housing \(Scotland\) Act 1987](#) ('the 1987 Act') as amended by provisions in the [Housing \(Scotland\) Act 2001](#) ('the 2001 Act') and the [Housing \(Scotland\) Act 2014](#) ('the 2014 Act').

Allocation policies also need to comply with legislation that relates to homelessness. These rules are specified in Part II of the 1987 Act, as amended by the 2001 Act and the [Homelessness etc. \(Scotland\) Act 2003](#).

The Scottish Government publishes guidance for social landlords that aims to provide practical assistance on the legal framework that governs their allocation policies. This includes [statutory guidance](#)<sup>2</sup> and a [practice guide](#)<sup>3</sup>.

Social landlords also need to consider other relevant legislation when developing and reviewing allocation policies. This includes the [Equality Act 2010](#) and the [Human Rights Act 1998](#).

# Allocation Policies

This section provides information on the allocation policies of social landlords, including:

- [What is an allocation policy?](#)
- [What is a housing allocation list?](#)
- [Who can be admitted to a housing allocation list?](#)
- [What is 'reasonable preference'?](#)
- [What is an 'unmet housing need'?](#)
- [What are 'unsatisfactory housing conditions'?](#)
- [How do social landlords define 'under-occupied' housing?](#)
- [How are adapted and accessible homes allocated?](#)
- [Which factors cannot be considered by social landlords?](#)
- [What is a local letting initiative?](#)
- [Can social landlords consider exceptional circumstances?](#)
- [How often are allocation policies reviewed?](#)

## What is an allocation policy?

An allocation policy sets out all aspects of a social landlord's approach to allocating its own housing stock. Each social landlord develops their own policy, setting out how they allocate their housing stock.

Social landlords need to take into account the [law on allocations](#) when they devise their policies, meaning that there is a core set of rules that are the same across all allocation policies. Within this legal framework, however, landlords have a wide degree of discretion to set their own allocation priorities and processes.

Local considerations, the needs of the community and the focus of the organisation will all have an impact on the policies and practices set by each social landlord. This means there are many different variations in allocation policies across the country.

## What is a housing allocation list?

A housing list is either kept by social landlords individually, jointly, or by a third party so that they can allocate their housing<sup>i</sup>. It lists all applicants who have applied for housing with the landlord.

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<sup>i</sup> Section 19(2) of the 1987 Act, as amended

The list will include general applicants as well as those applying for a transfer between social housing lets. There will also be applicants for social housing who are considered to be [statutorily homeless](#).

## Who can be admitted to a housing allocation list?

Anyone aged 16 or over and from the UK has the right to be admitted to a list for housing allocation. Landlords cannot discourage anyone over 16 from applying for housing.

Admission to a housing list, however, does not mean that applicants have a right to be made an offer of housing. The processes and priorities for housing will depend upon the specific [allocation policies](#) of the landlord.

The criteria for individuals from outwith the UK are set out in legislation and are more complex, with eligibility dependent on immigration status, their economic activity, and their entitlement to public funds. The criteria for non-UK citizens to join a local authority housing list also differs from that of a registered social landlord in certain respects. The Chartered Institute of Housing has more [detailed information on eligibility criteria for non-UK citizens](#).

## What is 'reasonable preference'?

The [Housing \(Scotland\) Act 1987](#) as amended sets out three groups of housing applicants who must be given a level of priority, or a 'reasonable preference', in housing allocation policies. These are:

- [homeless persons](#) and persons threatened with homelessness and who have [unmet housing needs](#)
- people who are living under [unsatisfactory housing conditions](#) and who have unmet housing needs
- tenants of houses which are held by a social landlord, which the social landlord selecting its tenants considers to be [under-occupied](#).

Each landlord needs to decide how much priority it gives applicants in each of the three reasonable preference groups. Landlords cannot give homeless people less preference than the other specified groups, but policies should also give an appropriate level of priority to those in urgent housing need, which can play a role in preventing homelessness.

Social housing providers can also decide to give priority to other groups where specific needs are identified. Examples might include ex-service personnel, looked after or accommodated young people, those providing kinship care, or individuals leaving prison. However, any other groups being prioritised for allocations must not dominate an allocation policy at the expense of the three reasonable preference groups discussed above.

## What is an ‘unmet housing need’?

The first two [reasonable preference](#) categories require individuals to have an unmet housing need to be given priority for housing allocations. The 1987 Act defines people as having an unmet housing need 'where the social landlord considers them to have housing needs which are not capable of being met by housing options which are available'.

The [Scottish Government Practice Guide](#) explains that this means that if someone's existing home can be suitably adapted, or they own suitable alternative property, there is an available option that would mean that they do not get reasonable preference. This does not prevent social landlords from housing them, but they would not be considered as having an unmet need and would not be given reasonable preference.

## What are ‘unsatisfactory housing conditions’?

There is no legal definition of 'unsatisfactory housing conditions' and landlords will need to determine the types of housing need that they will include within this reasonable preference group. This should be detailed in their [allocation policy](#).

When defining the types of housing that are unsatisfactory, landlords should generally include two categories which were reasonable preference groups prior to the amendments made by the 2014 Act.<sup>3</sup> These are homes that are overcrowded and properties that do not meet the tolerable standard.

There are also a range of other needs that can be recognised in some allocation policies as meeting the criteria of unsatisfactory housing, but these will differ among social housing providers. These may include, for example:

- domestic abuse
- other harassment or abuse
- insecure accommodation
- needing an adapted or accessible home
- lack of social, community or family support.

## How do social landlords define ‘under-occupied’ housing?

There is no legal definition of under-occupation and landlords need to set their own criteria for this. Most landlords are likely to consider under-occupation to occur when a household lives in a home which has at least one more bedroom than they would be entitled to under the current [allocation policy](#).<sup>3</sup>

Under-occupation is most likely to happen when adult children leave home, meaning that residents in this category will tend to be older. Social landlords should give some level of

priority to their own tenants who are under-occupying their home and who want to downsize, as well as the same priority to new applicants currently under-occupying other social rented housing. The aim of this reasonable priority group is to free up larger homes for families currently on the [allocation list](#).<sup>3</sup>

## How are adapted and accessible homes allocated?

Social landlord's [allocation policies](#) should recognise that some people will need an adapted or accessible property. While the legislation does not require all applicants in this situation to be given [reasonable preference](#) priority should be given where the applicant is living under unsatisfactory housing conditions and moving home will meet an [unmet housing need](#).<sup>3</sup>

Landlords will have their own assessment procedure to enable applicants to be allocated an appropriately adapted home where required. This should be set out in their allocation policy document.

## Which factors cannot be considered by social landlords?

Section 20(2) of the [Housing \(Scotland\) Act 1987](#), as amended, sets out the factors which must not be taken into account when allocating social housing.

A social landlord cannot consider someone's income as a factor in allocating them housing. This means that they cannot exclude applicants who receive benefits. This also means that if an individual has an [unmet housing need](#) the ability to pay for private rental options or to buy a home cannot be considered as an ability to meet that housing need themselves.<sup>3</sup>

A social landlord cannot take into account the length of time the applicant has lived in the area served by them when taking decisions on priority for housing. They also cannot give lower priority to people living outside of the area if there is a reason that they need to move into the area such as an offer of employment, moving to be closer to a relative, escaping domestic abuse or another special social or medical reason. This does not prevent landlords giving priority to local people, so long as the [allocation policy](#) does not include the excluded criteria above. Consideration of a local connection is often done through a [Local Letting Initiative](#).

Landlords can only consider previous rent arrears or debts in specific circumstances. They cannot refuse to house an applicant:

- because of non-housing debts
- where previous arrears of rent or service charges have been paid
- where the rent or service charge arrears amount to no more than a month's rent or charges

- where the applicant has come to an arrangement with the landlord for paying arrears, has kept to the arrangement for at least three months and is continuing to make the payments.

So long as the applicant is over 16, social landlords cannot take age into account when allocating homes except in the allocation of homes that have been substantially adapted for individuals of a specific age. They are also not allowed to specify that an applicant gets a divorce or no longer lives with another person in order to be allocated housing. Landlords cannot set a minimum time that an applicant spends on the [housing list](#) before they can be allocated a home.

## What is a local letting initiative?

While social landlords have to give [reasonable preference](#) to specific groups when allocating housing, they can choose to give some priority to other factors, including a local connection to the area. They cannot however take the [length of time lived in the area](#) into account.

A Local Letting Initiative (LLI) is one way to take local connection into account. The [allocation policy](#) should set out the circumstances under which an LLI might be used. These reasons may include:

- high demand in certain areas that makes it difficult for local people to access housing in their community
- to increase demand in low demand areas
- to reverse a trend of anti-social behaviour in a specific area
- a new build programme.

An LLI must take all [relevant legislation](#) into account and operate alongside the existing allocation policy . It should be considered as an extra set of rules that are applied in specific circumstances. The LLI should be published, take consultation with tenants and applicants into consideration, and be regularly monitored.<sup>3</sup>

## Can social landlords consider exceptional circumstances?

Social landlords can deviate from their [allocation policy](#) in exceptional circumstances where the existing policy will not result in a critical housing need being met, and where some form of discretion is needed. The number of lets made in this way should be minimal.

Applicants who require this discretion should have an exceptional level of need that is greater than others on the [housing list](#) or so unusual that the allocation policy cannot adequately prioritise. Examples may include the loss of a home in a fire or a request from the police to re-home someone in an emergency situation.<sup>3</sup>

## How often are allocation policies reviewed?

Social landlords are expected to review their policies on a cycle that is normally between three and five years.<sup>3</sup> Changes in legislation may also trigger the need for a review of policies to ensure that they comply with any changes in the law. In reviewing their policy, landlords should consider what they are trying to achieve through their [allocation policy](#) and how they will ensure that they meet local housing needs.

The Housing (Scotland) Act 2001 requires all social landlords to have a Tenant Participation Strategy in place. This should include details of how to involve tenants when a review takes place. Applicants on the [housing list](#) and any registered tenant organisations should also be consulted as part of the review process.

The 1987 Act, requires landlords to prepare and publish a report on the consultation and review of the policy. This should include an [Equality Impact Assessment](#) that aims to ensure that the policy reflects the needs of the community, as well as identifying any gaps.

Landlords should also have a system in place to monitor the operation of the policy which should also involve tenants in the process.

# The Allocation Process

This section provides information on how the allocation process works in practice. It includes the following areas:

- [What approaches to allocation are used by social landlords?](#)
- [How does a needs-based allocation process work?](#)
- [What is a 'group plus points' allocation system?](#)
- [What is choice based letting?](#)
- [How do social landlords use quotas and targets in allocation?](#)
- [What are common housing registers, and how do they work?](#)
- [Do social landlords collaborate with partners and each other?](#)
- [What is sensitive housing allocation?](#)
- [Why might someone be bypassed when allocating social housing?](#)
- [Why might someone be suspended from the housing list?](#)

## What approaches to allocation are used by social landlords?

While every social landlord will have their own process for allocating their properties to those on the [housing list](#), there are two main types of approach. These are [needs-based lettings](#) and [choice-based lettings](#).

Whichever approach is used the landlord must take into account the [reasonable preference groups](#) when giving priority, as well as their legal duties towards [homelessness](#).

## How does a needs-based allocation process work?

This is the most common approach to social housing allocation in Scotland<sup>3</sup>, where each applicant has their housing needs assessed when they apply. Following the priorities in the [allocation policy](#) each applicant is given a varying number of points based on their needs assessment.

Each housing need will be awarded points, and points are also allocated based on the severity of that need. All of an applicant's points are then added together to give a total that shows the level of their need.

When a house becomes available each landlord will have a system that determines whether it is allocated to someone on the [general list](#), someone that is on the transfer list, or a [statutorily homeless applicant](#).

If the home is to be let to someone on the general or transfer list, it will usually be allocated to the applicant with the highest number of points or [banding](#), and who needs a property of that size or type.

If there is more than one applicant with equivalent priority, waiting times are normally taken into account, with the applicant who has been on the list the longest being allocated the home.

The applicant will then be contacted by the landlord to be offered the property. An applicant can refuse the offer however some landlords limit the number of times that a reasonable offer can be refused before the applicant is [suspended from the housing list](#).

Applicants should be made aware of these rules when offers of housing are made to them. Limits are imposed to shorten how long a property is left vacant and to minimise periods of rent loss. In addition, in some areas there may be a limited supply of certain types of housing and appropriate alternative offers may not be available.

## What is a 'group plus points' allocation system?

Some social landlords also use banding as part of the needs-based allocation process. This is also sometimes called 'groups plus points' allocation.

In this system, each type of housing need is represented by a band or group and bands/groups are given an order of priority. Applicants with the same number of points can then be prioritised based on the band or group that their needs fall into. The more serious their housing needs are considered to be, the higher the banding they will be placed in.

Which housing needs fall into which group, and how these groups are prioritised, will be set out in the social landlord's [allocation policy](#).

## What is choice based letting?

This type of allocation system requires that applicants take the initiative in securing social housing, rather than waiting for the social landlord to allocate housing to them. The systems used by landlords are all slightly different but generally follow a similar process.

Applicants first fill in a registration form to join the [housing list](#) and go through the landlord's assessment process to identify their housing needs. If their needs meet the allocation policy of the landlord, the applicant is issued with a priority pass that they can use when bidding for available properties. These passes will show the level of priority that the applicant holds, for example they may be issued with a gold, silver or bronze pass that denotes how serious their housing need is.

Landlords then advertise properties that have become available and applicants that have a priority pass can bid on the properties that they consider meet their preferences and needs. Some listings will state which categories of applicant can bid on the property. For example, if a property is already specially adapted the bidding process may be limited to those who require this type of housing. A list is then drawn up of every person that applied for the advertised property, and an offer is made to the applicant with the highest level of

priority pass. If more than one applicant has the same priority, the offer is made to the applicant who has been waiting for the longest period of time.

Feedback is provided by landlords to the unsuccessful applicants so that they can understand their likelihood of success the next time that they bid on a similar property.

Choice based letting schemes will have a process in place to support any applicant who needs additional help to access the bidding system. This may include applicants with additional learning needs, the elderly, or vulnerable applicants who are otherwise identified as needing additional help to ensure that they are not at a disadvantage.

## How do social landlords use quotas and targets in allocation?

Quotas and targets can be used by social landlords to ensure a spread of allocation across the different types of housing needs. The way this generally works is that a proportion of lets are allocated to those who are [homeless](#), those on the general waiting list, and people waiting to transfer between homes.

When setting quotas or targets, landlords need to consider the three [reasonable preference categories](#). Homeless households cannot be given a quota lower than the other reasonable preference groups. Any targets should also take into consideration local housing needs and should be kept under review.

## What are common housing registers, and how do they work?

In some areas of Scotland, social landlords operate a common housing register. This means that applicants only need to fill in one application form to join a common housing list, rather than apply separately to each provider. The aim is to make the process easier for applicants.

Each common housing register will be unique in its policies and processes, but typically they share three key components:

- a single application form
- a single database for all applicants seeking housing
- a coherent approach to providing people with housing information and advice.

Further details on the operation of common housing registers can be found in the Scottish Government's [Common Housing Register \(CHR\) - building a register: a practitioner's guide](#).

## Do social landlords collaborate with partners and

## each other?

In areas without a [common housing register](#), local authorities may have a nomination agreement in place with registered social landlords in their area. These agreements acknowledge that people are more likely to apply to the local authority than to other social landlords. Under the agreement local authorities will be able to nominate applicants from their own list to fill an agreed percentage of available housing held by other landlords.

Nomination agreements should also set out how this process is undertaken, how disputes are resolved and should be regularly reviewed.

Social landlords may also have formal protocols or arrangements with other partners. These may include social work services, women's refuges or other organisations that work with applicants who have particular needs.

## What is sensitive housing allocation?

The purpose of sensitive allocations is to ensure that the allocation of housing does not lead to housing management problems or unsustainable tenancies. Where it is used, instead of automatically providing the accommodation to the applicant at the top of the list, a sensitive allocation will first give consideration to whether the applicant is suitable for the property. Landlords should consider:

- information they have about the applicant
- knowledge about the property
- the needs of prospective neighbours.

The use of sensitive lets should only happen when deemed necessary, and landlords need to have a clear process to follow and keep a record of all decisions made under this process. Sensitive lets should be closely monitored by landlords, and decisions need to be transparent and accountable.<sup>3</sup>

## Why might someone be bypassed when allocating social housing?

A bypass is when a social landlord does not make an offer of housing to someone who might otherwise have been made an offer. This might happen because the available property does not meet the needs of the applicant, or because it is similar to a property that the applicant has already refused.

The landlord must keep a record of why a bypass has been made, and if an applicant is frequently bypassed, the landlord should ask the applicant to review the type of housing preferences that they have made.<sup>3</sup>

## Why might someone be suspended from the housing list?

Suspensions from the housing list are made when a social landlord decides that an applicant will not be offered a home until certain circumstances change, or conditions are met. Reasons for a suspension may include anti-social behaviour, conviction of a crime, abandoning a previous property or tenancy-related debt.<sup>3</sup>

Suspensions should be kept to a minimum and the landlord's [allocation policy](#) should be very clear about the situations where they will be used. There should also be an appeals process for applicants to challenge their suspension.

Applicants who are [statutorily homeless](#) cannot be suspended from the housing list.

# Social housing allocations and homelessness

This section provides additional information on how homeless people interact with social housing allocation policies. It includes:

- [What does it mean to be statutorily homeless?](#)
- [How is priority given to homeless people in social housing allocation?](#)
- [What responsibilities do local authorities have in housing homeless people?](#)
- [What are the responsibilities of registered social landlords?](#)

## What does it mean to be statutorily homeless?

A person is considered to be homeless if they are either without a home, or it is unreasonable for them to stay in their current accommodation. Local authorities have a legal obligation to help people who are homeless or at risk of becoming homeless by providing advice, information, and housing in certain circumstances.

Homelessness is defined by the [Housing \(Scotland\) Act 1987 \(as amended\)](#).

## How is priority given to homeless people in social housing allocation?

Being [homeless](#) or threatened with homelessness is one of the [reasonable preference groups](#) that should be given priority for housing allocations. This group cannot be given a lower priority than the other two reasonable preference groups.

## What responsibilities do local authorities have in housing homeless people?

Scottish Government guidance <sup>3</sup> states that local authorities have a responsibility to secure settled accommodation for homeless applicants as quickly as possible, and to minimise time spent in temporary accommodation. This may be in local authority housing or through [nomination agreements](#) with other registered social landlords.

They also have a responsibility to make a reasonable offer of housing to those who are homeless. This should take into consideration the needs and circumstances of the applicant. Guidance states that the offers made to homeless applicants should reflect the same profile as general applicants and offering only low demand properties is considered poor practice. <sup>3</sup>

The Scottish Government also publish a [homelessness: code of guidance](#) that local

authorities need to consider when housing homeless people.

## **What are the responsibilities of registered social landlords?**

Registered social landlords should work in partnership with local authorities to support homeless applicants or those threatened with homelessness to find accommodation.

Applicants who contact the registered social landlord directly should also be advised to apply to the local authority for homelessness assistance. Requests made by local authorities to house homeless applicants should be met by registered social landlords unless there is a good reason not to.

# Oversight and complaints

This section includes information on:

- [How can an appeal or complaint be raised?](#)
- [What happens when someone is not happy about the outcome of a complaint?](#)
- [What is the Scottish Housing Regulator?](#)

## How can an appeal or complaint be raised?

Social landlords will have an appeals process set out in their [allocation policy](#). Appeals about allocation decisions can normally be made when:

- the applicant disagrees with the priority they have been allocated
- the applicant disagrees with a suspension
- the applicant does not think that they have been made a reasonable offer.

Social landlords should also have a formal complaints process set out in the allocation policy. It should be clear about how a complaint can be raised, the process that will be followed, and the time frame within which it will be considered.

## What happens when someone is not happy about the outcome of a complaint?

If an applicant has gone through the complaints process with their social landlord and is still not satisfied with the resolution it may be possible in certain circumstances to raise the complaint with the [Scottish Public Services Ombudsman](#).

It may also be possible to seek a [judicial review](#), however legal advice from a specialist solicitor should be sought if considering this option.

## What is the Scottish Housing Regulator?

The Scottish Housing Regulator was established on 1 April 2011 under the [Housing \(Scotland\) Act 2010](#). They are the independent regulator of Registered Social Landlords and local authority housing services in Scotland.

They have a role in promoting the interests of tenants. The Regulator will also monitor, assess and report on social landlords and has powers to intervene when required to. They also publish a register of social landlords in Scotland.

The Regulator also reports on landlord's performance against the [Scottish Social Housing Charter](#). The Charter sets out the standards and outcomes that tenants and homeless

people can expect from landlords. The outcomes that relate to the allocation of social housing are:

- 7. Social landlords work together to ensure that: people looking for housing get information that helps them make informed choices and decisions about the range of housing options available to them
- 8. Social landlords work together to ensure that: tenants and people on housing lists can review their housing options.
- 9. Social landlords ensure that: people at risk of losing their homes get advice on preventing homelessness.
- 10. Social landlords ensure that: people looking for housing find it easy to apply for the widest choice of social housing available and get the information they need on how the landlord allocates homes and on their prospects of being housed.

It is worth noting that the Scottish Housing Regulator does [not have a role in dealing with individual tenant complaints](#).

# Statistics

Information in this section includes:

- [Where can statistics on social rented housing be found?](#)
- [How many people are on housing lists?](#)

## Where can statistics on social rented housing be found?

The Scottish Government publish a range of housing statistics. This includes an annual report on the key trends with information on social rented housing stock. These publications are available on the [Scottish Government website](#).

The Scottish Housing Regulator also publish statistics that include data submitted by landlords on stock, energy efficiency and a number of other measures. It also publishes information on compliance with the Social Housing Charter. This information is [available on the Scottish Housing Regulator website](#).

## How many people are on housing lists?

The Scottish Government publish housing list statistics as part of their key trends annual report. The numbers include people on local authority [housing waiting lists](#) and [common housing registers](#). Some applicants however may be on more than one waiting list, so the statistics recorded include an ‘unquantifiable number of double counting’.<sup>1</sup>

The Scottish Household Survey also asks people if they are currently on a housing list. The most recent survey from 2020 did not ask for this information, so the latest statistics are from 2019. This report states that:

“ An estimated 130,000 (five per cent) of households were on a housing list in 2019, with a further 20,000 (0.7 per cent) of households estimated to have applied for social housing using a choice based letting system or similar within the last year, figures which are similar to those for the two previous years 2017 and 2018.”

Scottish Government, 2020<sup>4</sup>

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