

REPORT TO: Cabinet

MEETING DATE: 12 June 2012

BY: Executive Director (Services for Communities)

SUBJECT: Travelling Persons Site - Pitch Allocations Policy

1 PURPOSE

- 1.1 To seek Cabinet approval of the new Travelling Persons Site Pitch Allocations Policy prior to implementation.
- 1.2 To present Cabinet with further supporting information in respect of the new Policy in relation to consultation and equalities duties.

2 RECOMMENDATIONS

- 2.1 That Cabinet approves the new Travelling Persons Site - Pitch Allocations Policy.
- 2.2 That Cabinet agrees the implementation date of 18 June 2012.
- 2.3 That Cabinet notes the consultation process approach meets the Council's legal requirements under the Housing (Scotland) Act 2001 and also reflects good practice.

3 BACKGROUND

- 3.1 The current Housing Allocations Policy was approved by Cabinet in March 2007. The Policy was implemented on 2 July 2007.
- 3.2 The aspects relating to the let of pitches to Gypsies/Travellers did not form part of the Housing Allocations Policy, as at that time an Accommodation Needs Assessment for Gypsies/Travellers was being undertaken on behalf of East Lothian Council, Midlothian Council, City of Edinburgh Council and Scottish Borders Council.
- 3.3 The Accommodation Needs Assessment for Gypsies/Travellers was concluded by Heriot Watt University et al in April 2008.

Key Policy Principles

- 3.4 The Housing (Scotland) Act 1987 sets out the local connection criteria for a social housing provider to assist them in determining whether an applicant is eligible for an offer of housing (these rules are also applied to the allocations of pitches). It is left to social housing providers to determine their use of local connection criteria.
- 3.5 Given the nomadic cultural lifestyle of Gypsies/Travellers both East Lothian Council and Midlothian Council agree that the local connection rules will not apply to the allocations of pitches on the Travelling Persons Site.
- 3.6 The Travelling Persons Site – Pitch Allocations Policy has been aligned with the Housing Allocations Policy i.e. where appropriate, it will use the same housing needs factors to prioritise applications for a pitch on the Travelling Persons Site.
- 3.7 The Policy and supporting processes/documentation will address the points raised in the Accommodation Needs Assessment for Gypsies/Travellers i.e. ‘to review allocations policies to ensure appropriate criteria for meeting site accommodation needs’.
- 3.8 The new Policy has identified links to and is cognisant of other Council corporate and housing policies and strategies - such as the Local Housing Strategy and the Housing Allocations Policy.

Consultation Process

- 3.9 Consultation with existing site residents and appropriate stakeholders was jointly undertaken by Shelter Housing Aid Centre and Community Housing Staff from East Lothian Council.
- 3.10 Shelter Housing Aid Centre have provided a report on the consultation process with residents on the site at Whitecraig, which is lodged in the Members’ Library.
- 3.11 A Consultation Register was used to record the details of all the stakeholders contacted during the process and any responses received. This is also lodged in the Members’ Library.

4 POLICY IMPLICATIONS

- 4.1 None.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 An Equalities Impact Assessment has been completed and negative impacts have been found. Action has been taken to mitigate against these impacts. This document can be found using the link overleaf:

http://www.eastlothian.gov.uk/downloads/download/1128/equality_impact_assessment-community_services_department

6 RESOURCE IMPLICATIONS

6.1 Financial – The Policy is cost neutral

6.2 Personnel – None.

6.3 Other – None.

7 BACKGROUND PAPERS

7.1 Appendix 1 - Travelling Persons Site Pitch Allocations Policy

7.2 Travelling Persons Site Pitch Allocations Policy – Residents Consultation Report by Shelter Housing Aid Centre available in Members' Library.

7.3 Travelling Persons Site Pitch Allocations Policy Consultation Register available in Members' Library.

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DATE	8 May 2012



East Lothian
Council

Midlothian



**Old Dalkeith
Travelling Persons Site**

Allocations Policy

September 2011

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This Policy is available on request in different languages and in other formats such as large print, tape, Braille.

Section 1: Introduction

The Old Dalkeith Colliery Travelling Persons Site is managed by East Lothian Council on behalf of both East & Midlothian Councils. The site consists of twenty hard stand pitches with access to individual amenity blocks. This policy describes how we will allocate the pitches on the Site. It also describes how we set priorities between applicants.

The Travelling Persons Site Allocations Policy forms part of the Council's general policy framework. For example, it is linked to other Council policies and strategies such as the Local Housing Strategy, Homelessness Strategy and the Community Housing Allocations Policy.

Both East & Midlothian Councils are committed to the provision of pitches to enable gypsy and traveller families to continue with their cultural lifestyle. The Councils recognise the Gypsy/Traveller community as a minority ethnic group and give due regard to the Human Rights Act 1998 which prohibits discrimination, and the Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 and the Equality Act 2010.

East Lothian Council has adopted the definition of equal opportunities presented in the 2007 UK Equality Review. The definition presents the concept of an 'equal society' seeks equality in the freedoms that people have to lead a fulfilling life.

'An equal society protects and promotes equal, real freedom and substantive opportunity to live in the ways people value and would chose, so that everyone can flourish. An equal society recognises people's different needs, situations and goals and removes the barriers that limit what people can do and be.' UK Equalities Review 2007.

This definition of equality captures three aspects of equality:

Opportunity - whether everyone really has the same substantive freedom to flourish.

Agency - what degree of choice and control an individual has in achieving the valued activity.

Process - whether discrimination (or some barrier or process) causes or contributes to a particular inequality.

We consider that the development of this allocations policy is an important development to ensure that the Gypsy/Travellers have fair and equal access to the facilities available locally.

Section 2: Policy Objectives

2.1 The main objectives of our Travelling Persons Site Allocation Policy are:

- meeting legal and good practice standards, in particular the range of housing needs specified in allocation and homelessness law
- delivering accommodation to applicants with different housing needs in order to achieve balanced and sustainable communities
- working in partnership with all stakeholders and the Gypsies/Traveller community to meet our required standards
- to assist in preventing homelessness in line with our Homelessness Strategy
- that all applicants are treated in a fair and equal manner by adopting a unified approach to allocations. This means that all applications are held together and their circumstances assessed as needs factors
- applicants will not be discriminated against because of age, disability, language, religion or belief, race, sex, gender reassignment, sexual orientation or marriage or civil partnership, as well as discrimination on grounds of class or social origin or personal beliefs or opinions
- promoting equal opportunities through positive initiatives to meet individual needs. For example, we will consult with disabled people and ethnic minorities to provide services that are accessible to them, we will provide information in accessible languages and we will promote the policy to those for whom the relevance of the policy has changed
- allocating pitches based on a detailed evaluation of an individuals or families need and demand. We will allocate pitches based on both need and applicant choice
- we will promote site occupants' rights such as the right to exchange pitches on the site and networks of sites throughout Scotland
- providing applicants with detailed advice and information about their housing options
- processing applicants' personal details in line with legal obligations to ensure confidentiality

- informing applicants about our appeals and complaints system so that applicants can obtain a fair hearing if they are not happy with Council decisions
- monitoring how we perform through all the stages of the allocation process
- reviewing our policy every three years in consultation with site occupants as well as other service users, for instance, housing list applicants

Section 3: Legal & Regulatory Framework

An allocation policy must meet specific legal requirements. Section 3 is a plain language summary of the main legal rules; it is not intended as a precise statement of the law.

The main law that deals with the allocation of houses is detailed in the **Housing (Scotland) Act 1987** (as amended). These rules deal with the following issues:

- admission to the housing list
- groups to receive reasonable preference when houses are let
- factors to be ignored when houses are let
- information and publicity, and
- housing information supplied by applicants

3.1 Regulatory Standards

We have established allocation practices that meet the regulatory standards of The Scottish Housing Regulator in relation to housing. We have also applied these standards to our pitch allocation practices. The Scottish Housing Regulator housing standards cover (a) admission to the housing list (b) general allocation practice and (c) Sites for Gypsies /Travellers.

(a) Access to Housing (Activity Standard 1.1)

“We make sure that people have fair and open access to our housing list and assessment process. We work with others to maximize and simplify access routes into our housing.” We have applied this standard to the letting of pitches.

(b) Lettings (Activity Standard 1.2)

“We let houses in a way that gives reasonable preference to those in greatest housing need; makes best use of available stock; maximizes choice; and helps to sustain communities.” We have applied this standard to the letting of pitches.

(c) Sites for Gypsies/Travellers (Performance Standard: AS6.1)

“We plan and provide or arrange good-quality, serviced stopping places for Gypsies/Travellers. We let pitches in a way that ensures fair and open access for all. We take Gypsies/Travellers’ views into account in delivering our services, and we are responsive to their needs.” We have applied this standard to the letting of pitches.

3.2 Admission to the Pitch List

Any person aged **sixteen** years or over is allowed to register on the Pitch List. Applicants from EU countries who are employed or have a right to reside in this country, or who are normally resident in this country can also

register on the pitch list. Admission to the list does not mean though, that applicants have a right to be made an offer of a pitch. The priority given to individual applicants depends on how they are prioritised within our allocation system; this is explained in detail in Section 4.

3.3 Reasonable Preference

The **Housing (Scotland) Act 1987** tells us that certain sections of our community are to be given reasonable preference when allocating houses. Reasonable preference simply means the priority given to these applicants for housing. We have applied this standard to the letting of pitches where appropriate.

These groups are:

(a) homeless people or people threatened with homelessness and

(b) people living in:

- housing below the tolerable standard
- overcrowded houses or in large families
- unsatisfactory housing conditions

3.4 Homelessness Responsibilities

It is important to stress that the **Housing (Scotland) Act 1987** also deals with homelessness law; and that applicants have specific housing rights under homelessness law.

Part II of the Housing (Scotland) Act 1987 (as amended by the 2001 and 2003 Acts) sets out the powers and duties of local authorities in dealing with applications from people seeking help on the grounds that they are homeless or threatened with homelessness.

These duties include providing temporary or permanent accommodation where appropriate and, more generally, the duty to give advice and assistance to anyone threatened with homelessness.

3.5 Circumstances Not Considered

The **Housing (Scotland) Act 1987** (as amended by the 2001 Act) tells us that we must ignore certain matters when selecting site occupants; these are:

- the length of time applicants have lived in East Lothian
- housing debt for which applicants are not responsible. For example - rent arrears owed by a former partner

- former housing debt that has been cleared
- non-housing debt. For example - council tax arrears
- the applicants age, except for housing that has been designed or adapted for people of a certain age, such as sheltered housing
- the applicants' income or property owned, including income or property owned by other members of the household

3.6 Other Circumstances Not Considered

The **Housing (Scotland) Act 1987** tells us that we must also take no account of whether an applicant lives in East Lothian if the applicant:

- is employed or has been offered employment in the area
- wishes to move into the area to seek employment and we are satisfied that this is the case
- wishes to move into the area to be near a relative or carer
- has special social or medical reasons for needing to be re-housed in the area
- is subject to harassment and so wants to move into the area, or
- runs the risk of domestic violence and so wants to move into the area

However, given the nomadic cultural lifestyle of the Gypsy/Traveller community, both East and Midlothian Council agree that local connection rules will not apply when applying for a pitch on the Travelling Persons Site.

The law also covers three specific requirements that we must **not** impose, namely that:

- applications are in place for a minimum period
- a divorce or judicial separation is obtained, or that
- applicants live apart from someone else before they are considered for housing

3.7 Housing Information Supplied by Applicants

Applicants are entitled to view personal information supplied in connection with their application for housing. This is a right contained in the **Housing (Scotland) Act 1987**.

They are also entitled to access personal information as permitted under the **Data Protection Act 1998**.

We provide this information, on request, within forty working days.

3.8 Tenant Consultation

The **Housing (Scotland) Act 2001** states that landlords must consult with tenants and registered tenants organisations on proposals that affect them, such as housing management and related standards of service. The **Housing (Scotland) Act 1987** states that any changes must be made publicly available within six months of the alteration being made - this is a legal requirement.

The Travelling Person's Site Allocation Policy is an important housing management policy. It is critical that we involve site occupants and other service users in its development and implementation.

3.9 Equalities Issues

All applications to the pitch list will be handled in a non-discriminatory way. We work to ensure that we meet our obligations under the Equality Act 2010 and other European Directives in relation to equal opportunities.

East Lothian Council's Single Equality Scheme sets out our commitment to equality, diversity, and human rights. This strategy is principally concerned with tackling discrimination and prejudice and the barriers faced by individuals and community groups on the grounds of:

- Race
- Disability
- Sex
- Age
- Sexual Orientation
- Gender reassignment
- Religion or Belief
- Pregnancy and Maternity

It should also be noted that the Housing (Scotland) Act 2001 requires both Registered Social Landlords and Local Authorities to follow Equal Opportunities law.

In line with East Lothian Council's positive approach to achieving equal opportunities, a full Equalities Impact Assessment was carried out on this policy in April 2011. For a copy of this assessment please email policy@eastlothian.gov.uk

Section 4: How our system for the Allocations of Pitches works

This Policy sets out the criteria by which East Lothian Council allocates pitches on its Travelling Person's Site, both to new applicants and to existing site occupants seeking to transfer pitches within the site.

East Lothian Council will assess all applicants in a fair, transparent and equitable manner. Wherever possible, the Travelling Person's Site Allocations Policy has been developed to align with the Council's Housing Allocation Policy.

The policy aims to allocate pitches to eligible applicants based on the following criteria.

- The needs of transfer applicants/allocations targets
- An assessment of need
- Time spent on the housing list

4.1 The needs of Transfer applicants/allocations targets

Allocations targets for transfers and general needs allocations are set annually by the Council's Cabinet. However, if no transfer applicants exist, then the allocation of a pitch will go to new applicants on the Pitch List who are assessed as being in the most need i.e. the application with the highest number of points.

4.2 An Assessment of Need

When applying for a pitch, all applicants must complete an application form. This asks questions in relation to the specific needs of the applicant i.e. current household circumstances, health & support needs and any other housing needs.

Points will be awarded for particular needs in the same way as the Council's Housing Allocations Policy.

Any health needs will be assessed using the Council's Health & Housing Assessment process. Applicants must complete a separate application form should they wish to apply for an award of medical points.

Should an applicant feel that they could become **homeless** or are **threatened with homelessness** i.e. have no accommodation available to them, or a caravan but nowhere to site it, they should contact the Council's Homelessness Unit for advice and assistance on Freephone number 0800 169 1611.

4.3 Exceptional Circumstances

In exceptional circumstances, the Council reserves the right to consider other needs when prioritizing applications. For example social needs - this may include the need to be closer to specialist medical or support facilities. Such applications will be referred to and considered by the Council's Rehousing Panel on a case by case basis.

4.4. The Points Table

A summary of the needs factors that can be used when assessing a pitch application to determine priority.

Needs Factor	Points
Health Needs (which also includes)	6 - 80
<ul style="list-style-type: none"> • Closer to family support/carer 	
<ul style="list-style-type: none"> • Discharge from Hospital 	
<ul style="list-style-type: none"> • Discharge from care placement 	
Homelessness Needs Factors	6 - 80
Social Needs	1 - 300

4.5 Time spent on the Pitch list

In line with Council's Housing Allocations Policy, the offer of a pitch will go to an applicant who has the greatest need. All offers will be made in writing as a minimum requirement and where possible the applicant will be contacted by telephone.

Where no applicants with assessed needs exist, the offer of pitch will be allocated by date of application. The applicant with the earliest date of application will be made the offer.

Where an applicant does not respond to an offer within seven days, this will be counted as a refusal and the offer will be made to the next applicant on the list. After the refusal of three reasonable offers the Council will suspend an application for twelve months. Please refer to the leaflet 'Cancellation, Suspensions & Exclusions' for further details.

4.6 Change in circumstances

Once an application has been received and registered, the applicant is responsible for informing the Council of any changes in their circumstances that may affect the application for a pitch, for example, any change in household circumstances or contact details.

4.7 When an offer won't be made

East Lothian Council reserve the right to defer any application should an unsatisfactory tenancy report be received or if the applicant has provided misleading information, or relevant information is withheld by the applicant, where this has had the unintended effect of being allocated a pitch. In all cases we will write to the applicant informing them of our decision and of their right of appeal. We also have the right to suspend applications from people: -

- who have rent arrears amounting to more than one month's rent, unless there is an arrangement in place to repay the arrears and that this arrangement has been adhered to for at least 3 months.
- who have been found to be involved previous anti-social behaviour
- who have lodged an application for asylum in the United Kingdom

This list is not exhaustive. Please see our leaflet '**Cancellation, Suspensions & Exclusions**' for further information.

4.8 Review

We undertake a yearly review of all applications on our pitch list; the review date is based on date of registration. This ensures that an accurate list is maintained and the information we hold is up to date.

We request applicants to inform us within **twenty eight days** if they want to stay on the pitch list.

If applicants fail to respond, we send out a reminder allowing a further **fourteen day** period.

If applicants still fail to respond, we remove applications from the pitch list. We obtain applicants' consent to do this on their application form.

4.9 Cancellation

Applications are also cancelled if the applicant (a) requests this, for example, because she or he no longer requires a pitch, or (b) if she or he has died.

Applications will also be cancelled when the applicant has received and accepted an offer of a pitch. The site occupant may then re-apply to the pitch list should they wish to do so.

5.0 Performance Management

We will monitor all elements of the Pitch Allocations Policy so that practice can be modified as required; this supports the corporate organisational commitment to achieving continuous improvement in service delivery.

The issues that we monitor are as follows: -

- accessing the Gypsies/Travelling Persons Site Pitch List
- offers and refusals
- pitch lets
- appeals and complaints

Information on all of the matters that we presently monitor is available on request.

We present information monitored to Policy & Performance Review Panel on a quarterly basis.

We also provide information on allocation performance to tenant groups and to tenants generally through the Homefront Newsletter, our website, and regular meetings with the East Lothian Tenants & Residents Panel.

5.1 Accessing Gypsies/Travellers Pitch List

- number of new applications, including processing within policy targets of 28 days
- reasons for application to assess levels of need and applicants' preferences
- applications deferred and cancelled
- equality information by reference to issues concerning age, disability, ethnicity and gender

5.2 Offers and Refusals

- the total number of offers made including acceptances or refusals
- reasons for refusal
- equality information concerning age, disability, ethnicity and gender

5.3 Pitch Lets

- number of pitch lets
- equality information concerning age, disability, ethnicity and gender

5.4 Appeals and Complaints

- number of appeals made including outcomes
- number of complaints made including outcomes
- equality information concerning age, disability, ethnicity and gender

5.5 Documentation

- Pitch allocation documentation to meet agreed equality and plain language standards, for example, the policy, the allocation booklet and leaflets.

Section 6: Appeals and Complaints

This section provides information on our appeal and complaints systems. Details of how to appeal or complain are provided to all applicants as part of general information that they receive when applying for a pitch.

Applicants being assessed under the homelessness legislation have a statutory right of appeal, details of which will be given to the applicants by their case officer.

If you want to make a comment, suggestion or complaint about a council service, you can get a Feedback form from your local office. This tells you about the Council's complaints procedures. It includes a form where you can make your comments. Post the form to the council. You do not have to pay for stamps - just use the Freepost address on the leaflet. Or, you can phone the Complaints Officer to discuss the issue on 01620 826600.

6.1 Appeals

Applicants may appeal against decisions with which they are dissatisfied. For example, they may appeal if they think that points awarded are not an accurate reflection of their circumstances.

Applicants also have a right of appeal in relation to the reasonability of an offer. Further information can be found in the '**Appeals for Community Housing Services**' Leaflet.

In addition, applicants whose applications are dealt with through the homelessness procedures have a legal right of appeal to have the decision reviewed by a senior officer not party to the original decision.

6.2 Feedback to the Scottish Public Services Ombudsman

Applicants have the right to complain if we **don't**:

- apply policy principles properly or
- meet our standards, for instance, not providing accurate advice and information

We give occupants a copy of our complaints procedure when they sign their Pitch Agreement.

We also provide information about the Scottish Public Services Ombudsman; this officer investigates complaints that concern maladministration. Applicants must, in general, use the internal complaints system before contacting the Ombudsman. You should contact the Scottish Public Services

Ombudsman within 12 months of the date that you first noticed the problem you are complaining about. In special circumstances the Ombudsman may be prepared to deal with matters that have gone on longer than 12 months. Please write to the Scottish Public Services Ombudsman, 4 Melville Street, Edinburgh. EH3 7NS. Freephone tel: 0800 377 7330, freephone fax: 0800 377 7331. Email: enquiries@scottishombudsman.org.uk