

**JOINT WORKING ARRANGEMENTS
Nominations and Section 5 Referrals**

BETWEEN

RENFREWSHIRE COUNCIL



AND

SANCTUARY SCOTLAND HOUSING ASSOCIATION LTD



Contents

Part 1	Terms of the Agreement	
1.1	Introduction	Page 3
1.2	Liaison Arrangements	Page 4
1.3	Common Definition of Homelessness Category of Housing Need	Page 4
1.4	Information Sharing	Page 4
1.5	Review of Agreement	Page 5
1.6	Altering the Agreement	Page 6
1.7	Confidentiality	Page 6
1.8	Dispute Resolution	Page 6
Part 2	Targets for the Agreement	Page 7
Part 3	Nomination Arrangements	Page 10
Part 4	Section 5 Homelessness Protocol	Page 13
	Signatures	Page 20

Appendices

1.	Council and Housing Association Equal Opportunities Policy
2.	Housing Association Stock Profile
3.	Quarterly Monitoring Pro-Forma
4.	Nominations Schedule
5.	Nomination Request Form
6.	Council Nominees Notification List
7.	Section 5 - Referral Form
8.	Template Section 5 Referral Offer Letter
9.	Guidance on Good Reason
10.	Ministerial Guidance on Arbitration Procedures

Part 1. Terms of the Agreement

1. Introduction

1.1.1 This Agreement sets out the joint working arrangements between Renfrewshire Council (the Council) and Sanctuary Scotland Housing Association.

1.1.2 Its aim is to provide a sound basis for positive partnership working between the two parties in order to:

- maximise access to housing for applicants;
- effectively meet housing need;
- alleviate homelessness;
- make best use of available housing stock, and create and maintain sustainable communities within Renfrewshire;
- provide a co-ordinated allocations service to individuals wishing public rented housing in Renfrewshire;
- operate an effective, efficient and equitable nomination process, which minimises void losses and disputes between the parties to the agreement; and
- to promote equal access to housing and commit to a policy of equality of opportunity with regard to race, sex and disability and to support equal human rights to all (see Appendix 1) or Sanctuary Scotland Housing Association Equal Opportunities Policy)

All information provided in connection with nominations will be treated as confidential by both organisations.

The agreement covers all lettings on a permanent basis to the Housing Association Stock listed at Appendix 2.

1.1.3 Part 2 of the Agreement sets out the target and target setting process for the combined agreement.

1.1.4 Part 3 of the Agreement sets out the nomination arrangements between the Council and Sanctuary Scotland Housing Association.

1.1.5 Part 4 of the Agreement sets out the Housing (Scotland) Act 2001 Section 5 Homelessness Protocol between the Council and Sanctuary Scotland Housing Association.

1.1.6 The Agreement outlines the agreed procedures and practices between both parties. It is a working document and will be reviewed on an annual basis and revised, where necessary, to ensure that its operation is effectively meeting the housing needs of people in Renfrewshire.

1.1.7 Nominations and referrals regarding registered sex offenders will continue to be subject to the NASSO and MAPPA protocols.

- 1.1.8 The terms of this Agreement should be read in conjunction with the relevant legislative and regulatory framework, such as the Housing (Scotland) Act 2001 and the requirements of the joint Local Authority and Housing Association Single Regulatory Framework.
- 1.1.9 Both parties will ensure that the procedures set out in this Agreement meet any legal requirements concerning equal opportunities in relation to race, colour, ethnic origin, nationality, gender, sexuality, disability, age, religion or other beliefs and in accordance with relevant legislation and good practice.

1.2 Liaison Arrangements

- 1.2.1 Named officers will be provided by the Council and the Housing Association will also provide named officers with day to day responsibility and authority for dealing with nomination and homelessness referral requests. There should be at least a second named officer within each organisation as a substitute to cover for absences.
- 1.2.2 Council and Housing Association staff will meet regularly to ensure that key personnel are familiar with their opposite numbers and also to encourage good ongoing awareness, understanding and communication.
- 1.2.3 The Council and Housing Association will always work together to try and reconcile differences and where possible find solutions, for example when an Association rejects one or more nominees. Where agreements cannot be reached the Association will proceed in line with their policy position.

1.3 Common Definition of Homelessness Category of Housing Need

- 1.3.1 The Council and Housing Association agree a common definition of the 'homelessness' category of housing need.
- 1.3.2 For an applicant to be categorised as 'homeless' within the terms of either the Council or Housing Association Allocation policy, the applicant must have:
- presented to the Council as a homeless applicant
 - received a 'homeless and in priority need' determination, following investigation by the Council
- 1.3.3 Where the Council have reached a 'homeless and in priority need' determination, applicants are queued on the housing register by the date of the applicant's homelessness application.

1.4 Information Sharing and Monitoring Information

- 1.4.1 An Housing Association seeking nominations but assessing housing need using their own allocation policy, will ensure the Council is kept informed of any updates to that policy. The Council will also ensure that the Housing Association is kept updated of any changes to the Allocation Policy used by the Council.

- 1.4.2 The Housing Association agrees to provide the Council with full detailed information on their stock - by property type, location (by association letting area), number of bedrooms and designation.
- 1.4.3 On a quarterly basis the Housing Association will give the Council information for monitoring purposes by completing a standard pro-forma detailed at Appendix 3.
- 1.4.4 The monitoring information will comprise:
- the property details for all of the Housing Associations lets within Renfrewshire and the source of the allocation, (e.g. own waiting list, transfers, nominations, homeless referrals etc). This information should be broken down by the Association's letting area.
 - the total number of nomination requests and their outcome
 - the total number of Section 5 referrals received and their outcome
- 1.4.5 On a quarterly basis the Council will supply to the Housing Association monitoring information which will comprise;
- the property details for all of Council lets within Renfrewshire and the source of the allocation, (e.g. own waiting list, transfers, nominations, homeless referrals etc). This information should be broken down by area.
 - Information on nominations made to other Housing Associations within Renfrewshire and the outcome.
- 1.4.6 This data will enable all parties to monitor against the targets agreed within the Protocol. This information will also be used to inform the Local Housing Strategy.

1.5 Review of the Agreement

- 1.5.1 A representative from the Association and Renfrewshire Council will meet on an annual basis to monitor performance and the terms of this agreement. With the agreement of the Housing Associations concerned, the Council may seek to meet with more than one at the same time.
- 1.5.2 It is also recognised that either party may have queries or concerns which need clarification. It is hoped that clarity can be provided on day to day issues by the named implementing officers with input from relevant line managers. In addition to the annual review meeting, either of the signatories of this agreement may request a meeting to discuss any aspect of the agreement.
- 1.5.3 In certain circumstances advice may be sought from the Scottish Housing Regulator. They are unlikely to intervene in individual cases except in relation to its role in facilitating homelessness arbitration procedures.

1.6 Altering the Agreement

- 1.6.1 The terms of this agreement may not be varied except with the written consent of the Association and Renfrewshire Council.

1.7 Confidentiality

- 1.7.1 Both parties involved in this agreement undertake to respect the confidentiality of any information which may become available concerning applicants. Neither party shall disclose any information to a third party without the permission of the applicants concerned.

1.8. Dispute Resolution

- 1.8.1 In the event of any dispute arising in relation to the operation of the Nomination Arrangements the matter shall be referred to the Council's Head of Housing Services and the Housing Association's equivalent for resolution.

In the absence of a satisfactory resolution the matter will then be referred to the Council's Director of Housing and Property Services and the Housing Association's Chief Executive or Director and failing resolution within a reasonable time either party shall be entitled to refer the matter to an independent arbiter to be agreed by both parties and failing agreement to be appointed by the Scottish Housing Regulator.

Part 2 Targets for the Agreement

2.1 Nomination Targets

2.1.1 The Council and the Housing Association have agreed that the Housing Association will offer to the Council 50% of its relets. It should be noted this does not cover extra care housing.

2.1.2 Setting targets

The Housing Association and the Council will agree a nomination schedule each year, giving a percentage breakdown for the targets for nominations and section 5 referrals for the following year. This will normally be done between January and March and will be applied at the start of each financial year.

The percentage target of lets agreed to homeless applicants will reflect the Council's allocation policy. For example if the Council sets a 40% target for Homeless allocations, the Council will seek to agree with the Association the breakdown for the targets for nominated properties at 80% to homeless applicants and 20% to general nominations. This is illustrated by a worked example in Appendix 4.

There may however have to be variations from this where the Housing Associations' stock is predominantly of a specialist nature.

The percentage target agreed for homeless lets and nomination lets is not intended to be a rigid figure; the targets for either do not have to be reached in all circumstances and could be exceeded. The reaching of a percentage target will not be justification for failing to comply with a Section 5 referral request.

The Council will in most cases decide whether a property offered by a Housing Association should go to a nomination or a Section 5 referral based on past nominations to the Association. However the Council reserves the right to make the decision based on need whether a nomination should be a section 5 referral or a nomination referral.

2.1.3 Review of targets

In addition to the annual review, the percentage nominations/ Section 5 referrals may be subject to review, if over time, it is identified a higher percentage of lets is required to meet homelessness legislative requirements. Any changes to the targets for the overall percentage of nominations, or the percentage of these nominations which are to be through Section 5 Referrals, will be agreed by both parties prior to implementation.

2.2 New Housing Developments

2.2.1 Strategic Consultation

Consultation regarding developments shall take place as part of ongoing planning/implementation of the Affordable Housing Investment Programme (in line with local Housing Strategy and Strategic Housing Investment Plan priorities).

Consultation shall take place between both parties to ensure that housing needs in a particular area are reflected in any proposed development. Consultation shall also take place with other appropriate agencies in determining the need for special needs housing and funding for housing support as appropriate.

The Council may in agreement with the Housing Association, request 100% nominations where the Council has had significant input to the development. For example, if the Council has made the land available.

2.2.2 Operational Consultation

Meetings shall take place as required between managing officers of both the council and the Housing Association, to discuss the progress of the development.

The percentage of nominations for the first lets will be agreed during the development stages and incorporated into the Nomination Schedule for the year when the property is due to become available for letting. Targets will be set enabling a balance to be struck between a) ensuring that homeless households have reasonable access to new stock, and (b) allowing the association to allocate in a way that helps to achieve a balanced community.

No later than 6 months in advance of practical completion, the Housing Association shall provide the Council with a site plan and advise the anticipated date of practical completion and property information.

The Housing Association will make available to the Council's representatives, details relating to the new development including.

- Scheme layout drawing(s)
- Numbers and size of accommodation
- Details of client group requirements
- Details of services/support to be provided
- Details of anticipated/actual charges

Appropriate staff within the Council shall be invited to visit the site of new housing developments for which they will be asked to nominate.

Requests for nominations to new build, acquired or newly rehabilitated properties will be made at least 3 months in advance of them becoming available for occupation.

2.2.3 Publicity and Promotion

The Housing Association will make available to local housing offices and other statutory and voluntary agencies, materials relevant to its housing activities, with the aim of:

- making potential tenants aware of any proposed development;
- publicising the housing mix in each development;
- detailing likely completion timescales;
- describing allocation criteria;
- informing prospective applicants of rent levels and service charges;
- informing prospective tenants of conditions of tenancy and type of tenancy agreement;
- giving prospective applicants information regarding the application process;
- advising prospective tenants of the situation with regard to right to buy.

Where it is appropriate, the Housing Association will be asked to provide publicity materials in ethnic minority languages or on tape for people with sight impairment difficulties.

Part 3: NOMINATION ARRANGEMENTS

3.1 Processing Nominations

3.1.1 Requesting Nominations

The Housing Association will invite nominations from the Council for lets as per the Nomination Schedule (Appendix 4). Where a 50 % nomination agreement exists the Housing Association will, on receipt of notification of termination of a tenancy, request a nomination from the Council for every alternate void property by emailing a copy of the Nominations Request Form (Appendix 5). The request form includes property details and any special features or services provided.

3.1.2 Selecting Nominees

On receipt of a Nomination Request, the Council will decide if the nomination is a general nomination or a Section 5 referral in terms of the agreed targets. If the nomination is a general nomination, the Council identify the required number of nominees from the Council's housing list, and will email the details within 5 working days as detailed in Appendix 6.

The Council will check the applicant is still interested in refocusing with a Housing Association before a nomination is made.

3.1.3 Submitting Nominations

If the Council fails to provide the requested nominations within the above time scales of 5 working days, Sanctuary Scotland Housing Association will provide email notification that this is a failed nomination. This should be recorded as a failed nomination and the Association can identify applicants from its own housing list for the property in question.

3.1.4 Number of Applicants to be nominated

Renfrewshire Council and Sanctuary Scotland Housing Association will agree the required number of housing applicants for each nomination request. This will normally be 5. If there is no demand for the property from the general waiting list, the Council will consider applicants from Group 1 Homeless. Where a match is found, a referral will be made under the section 5 - agreement (Part 4 of this document) even if the target for Section 5 referrals has been met. If there is still no demand from the homeless waiting list, this will count as a failed nomination.

3.1.5 Allocations Criteria

Renfrewshire Council will select nominees with a housing need from Group 2 - Mobility and Group 3 - Housing Need, or from their Regeneration list. Applicants on Renfrewshire Council's waiting list with no housing need i.e. Group 4 - Exchanges and Group 5 - General will not be nominated. Renfrewshire Council will take

account of the policy of Sanctuary Scotland Housing Association. The Association will consider the applicants in order of presentation, unless they provide Renfrewshire Council with an acceptable reason, why nominees should be taken out of turn.

3.1.6 Offer of Accommodation.

Before making any offer of accommodation the Housing Association may wish to carry out a home visit to the person to clarify circumstances, requirements, preferred location, explain tenancy terms etc. Failure to complete the home visit will not cancel the nomination/ referral.

Those applicants/nominees made provisional offers will be invited to view the property and will be given 24 hours within which to formally accept the offer of tenancy, unless a different timescale are agreed with the Housing Association.

3.1.7 Refusal and Resubmission of Nominations

Where a nominee refuses an offer, the Housing Association will work through the list of nominees sent by the Council until the list is exhausted. (Appendix 6).

If none of the nominees from the Council's Nominee list have been successful the Housing Association can allocate from their own housing lists. This is only applicable for nominations and not for Section 5 referrals.

3.1.8 Rejection of Nominees

Sanctuary Scotland Housing Association reserves the right to reject a Renfrewshire Council nomination in the following circumstances:

- The nominee has previously been a tenant of Sanctuary Scotland Housing Association and was evicted from that tenancy or during their tenancy they caused serious management problems.
- The circumstances of the nominee have changed since the Council last assessed them, or additional information is provided and the property is unsuitable for their needs.
- The nominee does not meet the requirements of Sanctuary Scotland Housing Association's Allocation Policy.

3.1.9 Support Needs

The Council will on the nomination form identify if the applicant has any known support requirements. Where additional care has been identified as a necessity in order for the applicants to cope living in the property, the Housing Association should make attempts to source appropriate support services and/or sign post the individual to the most appropriate agency who can assess their support requirements.

3.1.10 Notification of Outcome

The Housing Association will inform the Council of the outcome of the nomination, including reason for an unsuccessful/refused nomination, by emailing back the

Nominee list with the outcome code column completed within a maximum of 5 working days of the process being completed. (Appendix 6). Where the Association has contacted an applicant, the Association will notify them of the outcome of their nomination in each case.

3.1.11 Failure of Nominations

Should the nominations provided by Renfrewshire Council fail to provide a suitable applicant the Association will notify the Council of the result and then identify an applicant from its own housing list. The allocation will in these circumstances count as part of the Council's nominations quota. The reasons for any regular failure to provide successful nominations will be examined at a joint review meeting between the Association and Renfrewshire Council as is deemed necessary.

3.1.12 Special Needs

Where accommodation is designed to meet particular housing needs, nomination arrangements will be negotiated to take account of local circumstances and the special needs policies of the Housing Association. This may include liaison with the Council's Social Work Resources.

Part 4: SECTION 5 HOMELESSNESS PROTOCOL

4.1. Key Objective

- 4.1.1 The working arrangements set out below seek to ensure the smooth and effective operation of the legislative duty on Housing Associations to comply with requests from the Council to re-house homeless households in accordance with Section 5 of the Housing (Scotland) Act 2001.
- 4.1.2 The terms of this protocol should be read in conjunction with the Housing (Scotland) Act 2001 and any guidance issued or regulations made by Ministers under Sections 5 and 6 of the Act. The legislative framework provided by the Act and subordinate legislation or guidance takes precedence over the terms of this protocol. **The protocol may be amended at any future date in line with legal guidance or further legislation.**

4.2 Tenancy Information

- 4.2.1 Where the Council, in making its homelessness assessment, contacts the Housing Association for information relating to a previous tenancy held by the homeless applicant, the Housing Association will co-operate in supplying such information within 5 working days.
- 4.2.2 In making a referral to the Housing Association, the Council will provide any information relevant to the tenant's ability to sustain a tenancy.

4.3. Targets

- 4.3.1 Target setting is covered in Part 2 Targets for the Agreement. The target set for nominations to homeless applicants is not intended to be a rigid figure; it does not have to be reached in all circumstances and could be exceeded. **Neither the 2001 Act nor any guidance issued or regulations made by Ministers under Sections 5 or 6 of the Act enable a Housing Association to refuse a request on the grounds that the quota has been reached.**
- 4.3.2 It is recognised that there may be circumstances where a Housing Association re-houses a homeless person directly; these cases will not be offset against the Council's 50% nominations.
- 4.3.3 All homeless nominations will be in the form of a property led Section 5 referral, with the exception of point 4.3.4 below. (See also 4.5 Applicant led referral.) The same referral form will be used for both property led and applicant led referrals (See Appendix 7).
- 4.3.4 An applicant led Section 5 referral process may be invoked in a small number of cases per year. These cases would have a particular urgent need to be housed in settled

accommodation, for example hospital discharge. This type of request would only be made if the Council did not have any suitable accommodation available.

- 4.3.5 Properties used for temporary accommodation will not be included within the 50% target, however any temporary lets to homeless households which become permanent will be included within the quota.

4.4 Referral Process for Property Led Section 5 referral

- 4.4.1 The process described below is void led and seeks to meet the needs and aspirations of prospective tenants.
- 4.4.2 The Housing Association will invite nominations from the Council in respect of the agreed % of lets. If the nomination is to be awarded to a Homeless applicant the Council will look to their Group 1 Homeless queue (made up of applicants assessed by the Council as homeless and in priority need).
- 4.4.3 Housing Associations will receive only one name for a Section 5 referral as opposed to a list when it is a nomination referral.

This is done by taking into account:

- the applicant's date of application
 - the area where the person wants to live and Code of Guidance requirements, e.g. regarding location/reasonable preference.
- 4.4.4 A Section 5 referral form (Appendix 7) will be e-mailed to the Housing Association within 3 working days; e-mails should be copied to the second officer in the receiving organisation. The request is classed as a "formal Section 5 referral". See Appendix 7 for referral form.
- 4.4.5 The referral will include information about the contact details for the homeless person as well as any family member or adviser that needs to be involved. It will also specify any particular need in relation to literacy or visual impairment and any particular language requirements. The referral pro-forma will also contain relevant information relating to the person being referred, including:
- relevant information concerning assessed housing support or care needs and details of the actual packages of housing support or care that will be provided.
 - any other information of which the Housing Association should be aware in attempting to ensure that the tenancy can be successfully sustained.
- 4.4.6 Homeless applicants give consent to share information with Housing Association at the point of their homeless application, where they are required to sign a mandate which states that, 'I also agree that the Council may share information with other Housing Providers under the Council's nomination and Section 5 agreements'.

- 4.4.7 The Housing Association will confirm receipt of referral immediately or in any event within one working day of receipt, by e-mail, and inform the Council of whether it intends to do a home visit or not. The Housing Association will also at this stage have the opportunity to raise any concerns regarding the referral, perhaps because of specific local knowledge.
- 4.4.8 The Housing Association may wish to carry out a home visit to the person to clarify circumstances, requirements, explain tenancy terms etc. The home visit cannot be used to re-examine the homelessness assessment.
- 4.4.9 All property led Section 5 nominees will be issued with a formal offer letter from the Council, advising that the offer is in discharge of the Council's homelessness duty under the Housing (Scotland) Act 1987, as amended. Where the Housing Association is visiting an applicant, they will hand deliver the offer letter at time of visit.

Where the Housing Association does not visit an applicant, the Council will hand deliver the offer letter within 2 working days. A template letter is contained in Appendix 8. The Council will confirm to the Housing Association by email, the date the letter is delivered.

- 4.4.10 The homeless applicant will have 2 working days to respond to the Housing Association about the offer they have received. An extension may be granted but only after an assessment of the particular reasons and circumstances. If the applicant wishes to view, the Housing Association will make arrangements for viewing as soon as practicable.
- 4.4.11 The applicant must accept or refuse the offer of accommodation within 24 hours of viewing, unless a different timescale is agreed with the Housing Association.
- 4.4.12 The Housing Association will notify the Council of the outcome of the offer within one working day of receipt of applicant's decision by completing the outcome code on the Section 5 referral form and emailing it back (Appendix 7); where an applicant has accepted, the Housing Association will confirm to the Council the agreed date of tenancy commencement.
- 4.4.13 Where the applicant has not accepted the offer, the applicant will complete the refusal form (attached to the offer letter). The Housing Association will scan and email the form back to the Housing Advisor and copy to the Neighbourhood Office. The Housing Association will advise the applicant to contact their Housing Advisor immediately to discuss refusal implications. Every effort should be made to secure the completed refusal form from the applicant, however if the Association cannot secure it within 24 hours of viewing, the Association should advise the Council of no response.
- 4.4.14 Where the household has not accepted the offer, the Housing Association will advise the Council within one working day by returning Appendix 7 with outcome code completed. It will then be the Council's responsibility to assess whether the offer is reasonable for the applicant to accept. The Housing Association will hold the property for 5 working days, during which time the Council will ensure that the applicant is aware of the full implications of refusal.

If the reason for the refusal (e.g. condition of the property) can be addressed by some remedial action in a reasonable time, the applicant will be advised of this and asked to reconsider their refusal. If the Council concludes that the offer is not reasonable, the Council will withdraw the offer against the applicant.

- 4.4.15 Where the applicant refuses the offer, and the Council decides the offer is reasonable, the Council, may in agreement with the Housing Association, make one further nomination of a homeless applicant, by following the steps outlined above in 4.4.2-4.4.15.

4.5 Applicant Led Referrals

- 4.5.1 The Council will contact the Housing Association by phone informing them that they wish to make an Applicant Led referral. Details of the referral request will be discussed with the Housing Association; however a Housing Association should not refuse such a request unless it fits with the principles detailed below. The Section 5 referral form in Appendix 7 will be used for an Applicant Led referral.
- 4.5.2 Prior to formally responding, the Housing Association will notify the Council of any reason for not wishing to comply which fall out with those specified in Ministerial Guidance, but is included within one of the locally agreed (non-statutory) issues/principles which may be raised and discussed between the parties. The Council will decide whether or not to proceed or withdraw the formal referral.

Any such discussion of issues/principles does not in any way bind the Council to agreeing to any specific refusal: only the Act and the Ministerial guidance and regulations bind the parties.

Examples of such issues/principles might be as follows:

- Sensitive allocations: Wherever possible, the Council will seek to work in partnership with the Housing Association in connection with its aim to make lettings in such a manner as to be sensitive to the particular circumstances of the individual.
- Lack of connection with an area/no desire to live in an area: The Council will ensure that wherever possible homeless people are not referred to areas which are a significant distance from where they want to live and where they have no existing family or other connections etc.
- Recently evicted households: The Council will not normally refer to an Housing Association a household recently evicted by that Housing Association, however each case will be considered individually as a blanket policy is not appropriate.
- Support needs: Where appropriate, a Housing Support Plan will be attached to the Homeless Persons Referral Form.

- **Perpetrators of abuse/violence:** The Council will not normally refer a perpetrator of abuse of - or violence towards - a person living in the vicinity of the stock owned by the Housing Association; i.e. if such a referral is made unknowingly, the Council would normally agree to withdraw the request.
- 4.5.3 The Housing Association will give its formal response within 5 working days of receipt of the request. In the period prior to giving its response, the Housing Association may contact the Council for further information, or to provide information to the Council. This does not change the Housing Association's 5 day response deadline unless the two parties agree a revised response deadline (as well as a revised compliance deadline, if necessary). In very exceptional circumstances this provision/exchange of information may lead to the Council formally withdrawing the request, particularly where the Council has reviewed its original homelessness assessment.
- 4.5.4 The Housing Association's formal response to the named officer in the Council who sent the referral will be one of the following:
- **Situation A:** Housing Association indicates it will be able to comply with the request within the 6 week period stipulated in Ministerial guidance.
 - **Situation B:** Housing Association indicates willingness to comply but cannot indicate when a suitable property will become available.
 - **Situation C:** Housing Association indicates it has good reason not to comply.
 - **Situation D:** Housing Association advises that a formal offer letter has been sent to the applicant.
- 4.5.5 If an Housing Association is able to comply (Situation A) they should advise the Council, if known already, the property it proposes to offer (address, size, any other key features such as garden, major adaptations etc), and proposed date of allocation, which will normally be within six weeks of the original request. Where the Housing Association has not yet identified a particular property but is confident one will be identified shortly, they should advise the Council accordingly.
- 4.5.6 If a Housing Association indicates that it is willing to comply but cannot indicate when a suitable property becomes available (Situation B) the Council should consider their response within 5 working days and respond to the Housing Association. The Council's options are:-
- **Within the 5 day period, to negotiate with the Housing Association, in conjunction with the household, an alternative timetable for compliance.**
 - **To withdraw the request - this may or may not be after informal discussions with the Housing Association**

4.5.7 If an Housing Association indicates that it has a good reason not to comply (Situation C) they should respond to Council detailing its reasons for non-compliance which must be inline with the Ministerial guidance.

- *Extract: Ministerial Guidance - Non compliance in any timescale.*
Where the only accommodation the Housing Association has available is of a particular nature (for example, sheltered housing for older people, specialist supported accommodation, individual property specifically designed or significantly adapted for occupation by people with a disability) and this is not appropriate for the applicant then an Housing Association will have a good reason for non-compliance.
- *However, it is important that the views of the applicant and the nature of local demand are considered in reaching a decision on appropriateness. The special characteristics of the accommodation should not be used as the sole reason for not complying with a request but regard should be had to the sustainability of the accommodation as a specialist resource*

The Council will consider the Housing Association's response and in turn will respond within 5 working days. The Council's options are:-

- Within the 5 day period, to contact the Housing Association to discuss the Housing Association's response; this could lead to the Housing Association agreeing to reconsider the request.
- To withdraw the request (this may or may not be after informal discussions with the Housing Association).
- To indicate commencement of 5 working days within which the parties must reach agreement or submit to arbitration (this would arise only where informal discussions between the parties have ended in stalemate).

4.6 Arbitration

4.6.1 In accordance with the provisions of Section 6 of the Housing (Scotland) Act 2001 the parties to this Protocol agree to the appointment of an arbiter who will have the final say in the event of disputes arising from the Housing Association's refusal to comply with a request from the Council to re-house a homeless household.

4.6.2 The over-riding purpose of the arbitration process is to resolve disputes between the Council and Housing Association in order to help address homelessness and to provide a means for homeless people to get settled in accommodation as quickly as possible. As homeless people are in acute housing need, the procedure has been designed to allow arbitration to take place quickly and efficiently.

4.6.3 Where a Housing Association does not within a reasonable period comply with a request by the Council (i.e. provide accommodation within 6 weeks) and the Council considers that the Housing Association had no good reason for not complying with the request and the Council and the Housing Association are unable to reach agreement as to whether there is good cause, the Council and the Housing Association must appoint an arbiter to determine

the issue. The time period for the Council and Housing Association to agree whether there is a good reason for non-compliance before the requirement to appoint an arbiter is triggered is 5 days.

- 4.6.4 During this 5 day period (before the requirement to appoint an arbiter) the Council and Housing Association will try to reach agreement taking into account local housing circumstances and what is reasonable in all the circumstances. Initial disputes between Council/Housing Association named officers should be referred to the appropriate Council Housing Manager and Housing Association Manager within 2 working days. If there is still no agreement between the parties, the appropriate Council Senior Managers will discuss the issue with an identified Senior Officer within the Housing Association before submitting an application for appointment of an arbiter to Scottish Housing Regulator within 5 working days.
- 4.6.5 The detailed arbitration arrangements (application form, terms of appointment, remuneration and fees, provisions for apportioning costs, timescales for the process etc) are attached - Appendix 10, and are in accordance with the guidance issued by Scottish Ministers under Section 6(5) of the Act.
- 4.6.6 The arbiter's decision is final and binding on both the Council and Housing Association.

Joint Working Arrangements Nominations and Section 5 Protocols

Between Renfrewshire Council and Sanctuary Scotland Housing Association

Signature: 

Designation: Head of Housing Service
on behalf of Renfrewshire Council

Date: 17.06.08

Signature: 

Designation: Housing Manager

on behalf of Sanctuary Scotland Housing Association

Date: 16.6.08



DIRECTOR

27.6.08