



Housing Services: Removal Grant Policy and Procedures

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This policy is available, on request, in different formats such as compact disc, Braille and in large print. It can also be made available in other languages on request.

Section 1: Introduction

This document explains Orkney Islands Council's policy and practices covering a removal grant scheme. The main law that governs this area is the Housing (Scotland) Act 2001.

Our tenants have security of tenure under the terms of the Housing (Scotland) Act 2001. Therefore they are allocated a property, in accordance with our lettings policy and based on their needs at that time. They continue to have the right to occupy that property, regardless of any changes to their personal situation or family composition, which may have taken place in the meantime.

As a result of this some tenants may be under-occupying a property. The term under-occupation refers to an individual or family occupying a property that has more bedrooms than they require. This may be as a result of various changes in family composition including children growing up and moving out, the death of a family member or relationship breakdown.

We recognise the importance of having an incentive scheme which allows tenants, who may wish to move to a smaller property, to have the opportunity to do so, relatively free from financial constraints.

This can have the added advantage of enabling tenants to find a property more suited to their current needs whether in relation to health, financial matters or location. In addition it can result in lower costs for the tenant in relation to rent, council tax, heating etc.

We recognise the importance of such an incentive scheme as this allows larger properties to be returned to the Council so that they can be allocated to a family which requires a property of that size. As pressure on our overall stock increases, this issue becomes increasingly important.

This document has been produced by Housing Services and is intended to ensure that we:

“act in a manner which encourages equal opportunities and in particular the observance of the requirements of the law for the time being related to equal opportunities” (Housing (Scotland) Act 2010, Section 39).

In addition we aim to ensure that we meet the Scottish Social Housing Charter's outcome and standard in respect of access to social housing:

“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 their prospects of being housed.”

This outcome covers what social landlords can do to make it easy for people to apply for the widest choice of social housing that is available and suitable and that meets

their needs. It includes actions that social landlords can take on their own and in partnership with others, for example through Common Housing Registers or mutual exchange schemes, or through local information and advice schemes.

The policy is written in sections to enable easy updating in the light of legal change. The main sections are as follows:

Section 2 explains the principles that underpin our policy; these cover our commitments to tenants who wish to participate in the removal grant scheme.

Section 3 summarises, in plain language, the present law covering security of tenure.

Section 4 details the scheme itself with Section 5 covering the procedural elements of the operation of the scheme.

Section 5 covers application procedures.

Section 6 covers the appeals procedure.

Section 7 covers how we monitor this policy in practice. This is done through a range of performance indicators.

Section 8 explains how we consult with tenants and service users in the development and review of this policy.

Orkney Islands Council is generally referred to as "we" throughout this document.

In producing this document we have considered equal opportunities and accessibility issues. Therefore this document can be produced in different languages and formats as required for example large print and Braille.

In reviewing this policy we have taken into account the Counter Terrorism Act 2015 and related guidance and procedures. No specific measures are required in respect of our removal grant policy.

Section 2: Policy Statement

2.1. We meet good practice requirements concerning our removal grant scheme.

2.2. We advise new and existing tenants of the removal grant scheme. For example, we explain the removal grant scheme to tenants before they sign their tenancy agreement. We advise existing tenants of the scheme through our Tenant's Handbook and other leaflets, our website and include regular features in Housing News.

2.3. We provide tenants with details of specialist agencies that offer comprehensive housing and financial advice. For example, we refer tenants to the Citizens Advice Bureau to discuss the implications of taking part in our removal grant scheme in relation to their rights and responsibilities and cost implications of moving including the effect on household bills.

2.4. We use the scheme to make best use of our properties for instance to allow existing tenants to move to a smaller property, more appropriate for their needs which allows a larger family property to be let to a household in need such as a homeless family.

2.5. We advise tenants of their right to appeal our decision if they are unhappy with the way their application has been handled, this is in line with our commitment to promote an individual's right to a fair and impartial hearing under human rights law.

2.6. We provide training to employees who implement this policy. This training covers legal and good practice requirements, including security of tenure and our obligations under the homelessness legislation.

2.7. We monitor our performance through a system of performance indicators (See section 6). We also monitor patterns of removal grant uptake to assess the implications for general service delivery. For example, we monitor the reasons for seeking a removal grant against household composition to assess the effectiveness of our response.

2.8. We deal with complaints concerning failure to implement this policy through our internal complaints procedure.

2.9. We review this policy on a regular basis and consult with tenants as part of this review. This is carried out as part of consultation arrangements agreed between the council and tenants through the tenant participation strategy.

Section 3: Legal Issues

The operation of a removal grant scheme is not a statutory requirement however, it represents good practice for housing providers to operate incentive schemes to make the most effective use of their stock.

The Scottish Secure Tenancy (SST) was introduced by the Housing (Scotland) Act 2001.

Scottish Secure Tenants have security of tenure and in general, have the right to continue to occupy the property they were allocated, regardless of the fact that their family composition may have changed.

Scottish Secure Tenancies can be brought to an end only in specific instances and then only after a court order has been obtained.

There may be some instances where tenants may be required to leave their property, for instance if it has been identified as being liable for demolition and alternative accommodation has been offered.

This voluntary scheme allows tenants, who are under-occupying their property, to choose to move to a smaller property. The smaller property would be let under the SST and would therefore be subject to the same securities as the property which has been left behind.

At each stage, the provision of good quality housing advice is essential to ensure tenants are aware of their rights and responsibilities. This is the responsibility of the Housing Management Section.

Section 4: The Removal Grant Scheme

The Housing Management Section will deal with all requests for transfers under the Removal Grant Scheme.

The basis of the removal grant scheme is that the Council would pay a sum of money to a tenant who is prepared to move to a smaller property, when one becomes available. The sum paid is intended to help with removal costs and additional costs incurred such as replacement of floor coverings etc.

The size of the property required by the household will be determined by our Lettings Policy. A tenant cannot choose to move to a smaller property which remains larger than they need.

The number of cases accepted in any one financial year may be limited based on the availability of funds and this will be reviewed on an annual basis.

The scheme is intended to cover the areas of Orkney where demand is highest. Therefore Kirkwall and Stromness would be the main areas of operation. However, in some cases where demand can be evidenced, applications may be accepted in some of the more rural parts of Orkney mainland. This is at the discretion of the Executive Director of Education Leisure and Housing.

4.1. Level of Payment

The level of payment tenants may receive is based on the reduction in house size and is detailed below:

Moving from:	To a 2 apartment.	To a 3 apartment.	To a 4 apartment.
From a 3 apartment.	£700.	N/A.	N/A.
From a 4 apartment.	£900.	£700.	N/A
From a 5 apartment.	£1,100.	£900.	£700.

In addition a payment of £500 applies for tenants transferring from a one bedroom extra care property to a one bedroom general needs property outwith the extra care scheme. This applies in exceptional circumstances. More details in section 4.4.1.

4.2. Eligibility

To be eligible for the scheme the following criteria must be met:

- The tenant must be a Council Scottish Secure tenant.
- The current property must have one or more bedrooms surplus to their needs, as determined by our Lettings Policy.
- The property must be in Kirkwall, Stromness or other area determined as being one of high demand.

4.3. Priority Passes Under the Scheme

Priority Passes will be awarded in line with our Lettings Policy under the 'Under-Occupancy' category, and are as follows:

- Gold Priority Pass – by moving to a smaller property you will free up a family home with 3 or more bedrooms surplus to requirements.
- Silver Priority Pass – by moving to a smaller property you will free up a family home with 2 or more bedrooms surplus to requirements.
- Bronze Priority Pass - by moving to a smaller property you will free up a family home with 1 or more bedrooms surplus to requirements.

In cases where applicants are awarded a higher Priority Pass in a different category i.e. on medical grounds, the higher priority will take precedence, however this will not affect their eligibility for the Scheme.

The Executive Director of Education, Leisure and Housing may use his discretion to award a Platinum Priority Pass in cases where the property type, size, location is in urgent demand.

4.4. Conditions

Although assistance in the form of a removal grant scheme isn't laid down in legislation, it is good practice to provide such a scheme, allowing the best use of a limited stock. Therefore consent will only be refused if there are reasonable grounds for refusal. The scheme has been designed to allow parallels with a tenant's right to exchange, covered by Section 33 of the Housing (Scotland) Act 2001, to ensure fairness of operation.

Applications will only be refused where it is deemed to be reasonable to do so. Although a statutory right of appeal is not provided, we will let tenants appeal through our internal appeals system if their applications for assistance under the removal grant scheme are refused.

4.4.1. Reasons for Consent/Prioritisation

Particular property types and sizes are likely to attract prioritisation under the Removal Grant Scheme. These include:

- Substantially Larger Accommodation.
- Houses designed/adapted for person with particular needs.

Housing Designed/Adapted for Person with Special Needs.

It is desirable to maximise the use of all stock but this is particularly true of properties which have been adapted for people with special or particular needs. It is important to ensure that such properties continue to be reserved for this purpose where possible. When considering requests for assistance from those who are occupying such a property but no longer require the adaptations, it may be advisable to

consider such cases for a higher priority pass provided there is evidential demand for such accommodation.

Sheltered Housing.

People who are under occupying properties and require to move to sheltered accommodation will also be considered under the Scheme. All sheltered properties consist of bedsits and one bedroom properties, for which there is limited demand, and therefore the Scheme would not apply to people moving out of sheltered accommodation.

Extra Care Housing.

We currently have one extra care housing scheme which is in St Margaret's Hope. These properties are larger and some are two and three bedroom properties. In such situations, we reserve the right to waive the requirement that properties are within Stromness and Kirkwall to enable us to meet the particular needs of the client group concerned.

In exceptional circumstances we may consider offering a removal grant to those within one bedroom properties within the extra care housing scheme, where that household no longer has a need for the care / support element. In order to qualify there must be evidenced need for the property concerned. In such a situation the Executive Director of Leisure and Housing will have discretion to offer a smaller sum of money being £500 on the basis that we are not acquiring a larger property but one for a household with particular needs. Larger properties within the extra care scheme would be subject to standard removal grant rules.

4.4.2. Grounds for Refusing Consent

There is no definitive list of grounds for refusing consent. Each case requires to be assessed on its merits. Specific reasons mentioned in the 2001 Act where it is deemed reasonable to refuse consent for exchanges are now detailed followed by commentary on interpretation. It seems logical to also use these grounds as reasons for refusal for assistance under a removal grant scheme.

- A Notice of Proceedings has been served that specifies any of grounds 1 to 7 (Schedule 2).
- An order for recovery has been made against the tenant.
- The house occupied by the tenant has been provided by the landlord for employment purposes.

Commentary on Reasons for Refusal.

It is stressed that there is no legal definition of reasonableness and each case must be assessed on its particular merits. Further, the above list is not definitive and other reasons may exist for refusing applications for assistance under the removal grant scheme. These may include:

- Where a legal order such as an anti-social behaviour order has been taken against one of the tenants (or other household member).
- Or where the current property size is correct for the number of occupants.

The size of the property required by the household will be determined by our Lettings Policy. A tenant cannot choose to move to a smaller property which remains larger than they need.

Care should be taken in cases where the tenant has rent arrears. Although in some cases it may be desirable to refuse such an application, in others downsizing can result in reduced rental payments and lower utility bills both of which may assist in attempts to reduce arrears. In such cases it is at the discretion of the Executive Director of Education, Leisure and Housing as to whether to allow such an application. Should the application go ahead the payment raised through the removal grant scheme would be offset against the debt due to the Council.

Notice of Proceedings in Force.

It is clearly reasonable to refuse consent where we have served a Notice of Proceedings and are considering raising court action for recovery of possession where the tenant has breached the terms of let. However, staff should check the details of each case. A Notice may be in force, for example, for a breach that has been remedied, such as repayment of rent outstanding. In such cases, the Notice could be withdrawn and the exchange request could then proceed accordingly.

Order for Recovery of Possession.

Where we have been granted an order for recovery of possession, no request for assistance under the removal grant scheme should be granted as we will be seeking to evict the tenant(s) by (or close to) the date specified in the extract decree.

Tied Accommodation.

Where the tenant occupies accommodation as part of her/his contract of employment, exchange requests should be refused as this would have adverse effects upon the tenant's ability to fulfil work duties. One example of this situation would be wardens who reside within sheltered housing in order to carry out their duties more effectively.

4.4.3. Exemptions

Supported Accommodation.

Supported accommodation is exempt from this Scheme as these properties are allocated based on the individual needs of an applicant, by a panel of staff from Housing Services and Orkney Health and Care. Often a larger property is required in order to provide accommodation for 24 hour care staff.

Mutual Exchanges.

This scheme is not applicable for mutual exchanges since the purpose is to obtain a vacant, larger property to let to a household with a high level of housing need.

4.4.4. Miscellaneous

Payment is dependent on the tenant meeting the minimum standard of repairs following the Pre-Tenancy Termination Inspection.

Arrangements for removals are the responsibility of the tenant. They may choose to employ a professional firm who carry out removals or may prefer to make arrangements within their social circle for the removal to be carried out. The Council is not responsible for this aspect of the scheme or any losses incurred in this process.

Section 5: Procedures

5.1. Application Procedures

The Housing Management Section will deal with all requests for assistance under the removal grant scheme.

At each stage, the provision of good quality housing advice is essential to ensure tenants are aware of their rights and responsibilities. This is also the responsibility of the Housing Management Section.

Applicants who have not already registered for a transfer of property will be required to complete both an application for social rented housing in Orkney and the Removal Grant Scheme Standard Application Form. (Document 1).

Applicants who are already registered on the transfer list will only be required to complete the Removal Grant Scheme Standard Application Form (Document 1).

In the case of joint tenants, both tenants should sign the Removal Grant Scheme Standard Application Form (Document 1).

Where there are other occupants over the age of 16 in the property, termed “qualifying occupiers” under sections 12 to 15 of the 2001 Act, care should be taken to ensure they are aware of the application, and are provided with advice on their housing options if relevant, as it may have an effect on their future housing situation.

On receipt of the application(s), they will be date stamped and logged in the mail book. A decision will be made by the Senior Housing Officer (Housing Management) and the applicant(s) advised within one month.

Before a decision can be made, the Senior Housing Officer (Housing Management) will assess the application in line with the Lettings Policy and the Standard Staff Checklist (Document 2). An application will only be refused if it is reasonable to do so.

Where an application is successful the Senior Housing Officer (Housing Management) will issue the applicant(s) with Acceptance of Application for Assistance under Removal Grant Scheme (Document 3).

If an application is not successful the Senior Housing Officer (Housing Management) will issue the applicant(s) with a letter of Refusal of Application for Assistance under Removal Grant Scheme (Document 4), which clearly advises of the reasons for refusal. Tenants must be advised of their appeal rights in cases of refusal and advised that the Citizen’s Advice Bureau can assist if required.

This is in accordance with good practice by ensuring that tenants are encouraged to use appeal mechanisms available and ensure a right to a fair hearing. This is important under the Human Rights Act 1998, article 6 that provides individuals with the right to a fair hearing.

Thereafter the application will be progressed in accordance with our Lettings Policy. This covers the making of an offer, viewing the property and acceptance of the property. Our Voids Policy covers the Pre-Tenancy Termination Inspection (PTTI) process. This is the process of inspecting properties prior to tenants moving out. All the information covering the original property should be collected including any repairs and/or recharges, any outstanding rent etc. Once this has been done, the renunciation slip has been received for the previous property and the tenancy agreement has been signed, a cheque can be raised to cover the relevant sum.

Other sections should be notified of the tenancy change when this is finalised in accordance with normal procedures for tenancy changes.

Tenants may also be entitled to compensation on termination of tenancy if they have carried out certain types of improvements for which permission has been granted.

5.2. Decoration Grants for those Transferring Under the Removal Grant Scheme

Where a tenant moves as a result of the scheme, decoration grants will be determined according to normal procedures for transfer tenants.

Any decoration grant awarded for the property the applicant is vacating will be offset against any decoration grant for the property they are moving to. The same Building Inspector will determine the decoration grant allowance for the two properties. Decoration grants are payable dependent on applicant(s) having a clear rent account and no re-chargeable repairs are issued on the property being vacated.

The tenant will be notified in writing of any decision made regarding the decoration grant.

Section 7: Performance Management and Monitoring

Performance management is essential for two reasons. Firstly, to assess whether our services meet quality and value for money commitments and secondly, to evaluate areas for improvement.

In order to meet these objectives, we monitor the following issues:

- Regular reporting on areas throughout Orkney to identify areas of high demand, as determined through our Temporary Accommodation Strategy and Local Housing Strategy, where we would accept applications under the Scheme.
- Regular reporting on the demand for different property sizes.
- Number of applications each year by reason, property type, location and size of property.
- Number of applications processed in line with relevant time scales.
- Number of refused applications and reasons for refusal by location.
- Outcomes.
- Numbers of appeals and outcome.
- Number of complaints and outcomes.
- All the above in relation to age, disability, ethnicity and gender.
- Specific cost of scheme to be monitored as part of normal monthly budgeting requirements e.g. BMR reports.

We provide a report to committee on an **annual** basis.

The above information will be cross referenced with data from our lettings system to ensure prioritisation under the removal grant scheme is closely related to statistical data regarding property types/size and location in high demand.

Statistical data covering demand will be collected and analysed in order to identify property types/areas etc which should be prioritised, on an annual basis.

Operation of the scheme will be reported to Committee on an annual basis and any changes required will be determined at that stage. This may include different areas to be included or a review of payment levels.

Section 8: Consultation

This policy document deals specifically with the Removal Grant Scheme. It is vital to provide efficient services to our tenants that are sensitive to the rights and needs of individuals, considerate to their individual situations and yet ensure that we maximise the use of our stock.

The consultation arrangements for this document have been closely intertwined with that of the Advice and Information Strategy, ongoing assessment of the Homelessness Service and our drive to improve our strategic documents to ensure openness and clarity.

The process of consultation has involved:

- A small working group of officers and representatives from Orkney Islands Council have met to discuss how the policy might be developed to balance both the requirement to maximise our tenants' rights and their security of tenure with the pressures of a reducing stock and the increasing duties under the terms of the Homelessness legislation.
- An audit of the existing arrangements for removal grant applications and their effectiveness.
- A review of best practice.
- Consultation with staff.
- Consultation with relevant partner agencies.
- An article in the Housing News.
- A survey sent to all our tenants intended to determine levels of interest.

Appendix 1: Removal Grant Scheme Procedures

1. Tenant contacts Housing Services with an interest in the Removal Grant Scheme.
2. The Senior Housing Officer (Housing Management) discusses the scheme with the tenant and any joint tenants and qualifying occupiers explaining the scheme and assessing whether the tenant is eligible for transfer and whether property type etc is likely to be prioritised.
3. The Senior Housing Officer (Housing Management) provides assistance with completion of form.
4. The Senior Housing Officer (Housing Management) will then assess the application, making sure all joint tenants and qualifying applicants have consented to the transfer and make a decision within 28 days.

5.1. Accepted:

If the tenant is accepted for a transfer, they will be placed on the transfer list, in line with our Lettings Policy and informed when a suitable property becomes available.

When a property becomes available the tenant will be contacted and offered the property in accordance with our Lettings Policy.

5.1.1. Property accepted:

If the tenant accepts the property, a check will be done on any outstanding rent to the Council. If there is any outstanding rent this may be deducted from the final payment.

The property the tenant is vacating will then have a void inspection and any re-chargeable repairs will be deducted from the final payment. If the property is in exceptional condition a decoration grant may be payable as well, this is, however, at the discretion of Housing Services.

Now the final deductions from the payment have been compiled the tenant will be informed of the final payment amount.

- If the tenant pulls out, they will be returned to the transfer list if they so wish.
- If the tenant completes the transfer, they will transfer to the new property and the agreed payment will be made to the tenant.

5.1.2. Property rejected:

The applicant will remain on the transfer list and be offered another property should one become available.

5.2. Not accepted:

If the tenant's application is not accepted, they will be informed of the decision and the reasons for the decision.

The tenant must be informed of their right to appeal the refusal decision to the Executive Director of Education, Leisure and Housing.

- If appeal successful, go to **5.1**.
- If appeal unsuccessful, tenant notified accordingly.

Appendix 2: Removal Grant Scheme Standard Application Form (Document 1)

1. Name(s) of tenant(s) applying for assistance under above scheme:

2. Property address:

3. Property details (delete as necessary):

a) Type of house – mid-terraced / end-terraced / semi-detached / bungalow / flat.

b) Size of house – 2 bedroom / 3 bedroom / 4 bedroom / 5 bedroom.

c) Any adaptation? Yes / No. If yes, please give details.

d) Type of heating:

4. Date tenancy started:

5. Details of other people living in the house:

Name:	Date of Birth:	Relationship to Applicant:

6. Is this house the matrimonial home? Yes / No.

If yes, has your spouse consented to this transaction? Yes / No.

If no, the spouse's consent will be required to protect the spouse's occupancy rights. Discuss appropriate methods of contacting the spouse to seek consent to the transaction.

7. Please describe your reasons for wanting to downsize property (delete as necessary):

Financial / Social / Medical / Move to Sheltered Accommodation / Other (please specify below) / None of the above.

--

8. Which area(s) would you like to be considered for rehousing? (Please refer to our area choices leaflet).

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9. What would be the minimum number of bedrooms you would consider?

--

Signatures:

Applicant:	Date:
Applicant:	Date:
Senior Housing Officer:	Date:

Appendix 3: Standard Staff Checklist (Document 2)

(To accompany the application form).

Name(s):	
Address:	
Registration Number:	
Priority Pass:	

1. Is applicant on transfer list?

Yes / No.

If no, complete application for social rent housing in Orkney.

2. Is applicant a Scottish Secure Council Tenant?

Yes / No.

If no, refuse application for assistance under Scheme.

3. Is applicant(s) currently occupying tied accommodation provided by the Council?

Yes / No.

If yes, refuse application for assistance under Scheme.

4. Is there one or more bedrooms surplus to requirements in existing property?

Yes / No.

If no, refuse application for assistance under Scheme.

5. Does the applicant live in an area of high demand?

Yes / No.

If no, refuse application for assistance under Scheme.

6. Is house designed / adapted for occupation by person whose special needs require such accommodation?

Yes / No.

If yes, does tenant or other household member still require adaptations?

Yes / No.

7. Does the household have any rent arrears?

Yes / No.

If yes, is it reasonable to refuse application? Details:

8. Is a Notice of Proceedings in force?

Yes / No.

If yes, is it reasonable to refuse the request?

Yes / No.

If yes, specify reasons why:

9. Is an order for recovery of possession in force?

Yes / No.

If yes, refuse request for assistance under the scheme.

10. Is there a legal order such as an ASBO in place against tenant or any other household member?

Yes / No.

If yes, refuse request to assistance under the scheme.

Check that the rights of all qualifying occupiers have been covered and that checks have been made as to whether the house is the matrimonial home and whether spouse has consent (if relevant).

Date application approved:

Date application refused:

If application is refused, has applicant been advised of appeal rights?

Yes / No.

Senior Housing Officer Signature and Date:

Appendix 4: Acceptance of Application for Assistance Under Removal Grant Scheme (Document 3)

Our Ref:

Your Ref:

Date.

(Name and address).

Dear (Name of tenant),

Re: Request for Assistance under Removal Grant Scheme.

Further to your application in respect of the above scheme, I am pleased to advise you that your application has been successful.

You have been awarded a (type) priority pass under the 'under occupation category' and you will be notified when a suitable property becomes available. Unfortunately, we are unable to give you a timescale as to when a suitable vacancy will arise.

If you have carried out certain types of improvements to your house for which you received formal written consent from the Council, you may also be entitled to compensation. Please advise me if this may apply in your case.

Should your circumstances change you must immediately notify the Housing Division in writing at the above address.

Please do not hesitate to contact me if you have any queries meantime.

Yours sincerely,

Senior Housing Officer (Housing Management).

Appendix 5: Refusal of Application for Assistance Under Removal Grant Scheme (Document 4)

Our Ref:

Your Ref:

Date.

(Name and address).

Dear (Name of tenant),

Re: Request for Assistance under Removal Grant Scheme.

Further to your request under the above scheme, I write to advise you that your application has been refused for the following reason(s):

Please note that you have the right to appeal this decision to the Executive Director of Education, Leisure and Housing. If you wish to appeal, please contact us directly and we will be happy to provide you with further details regarding how to appeal. The Citizen's Advice Bureau offer a service to assist with this process which is free and confidential. They can be contacted on 875266.

Yours sincerely,

Senior Housing Officer (Housing Management).