

# FRANCES BAARD DISTRICT MUNICIPALITY



DEPARTMENTAL DRAFT POLICY  
ON  
EMERGENCY HOUSING ASSISTANCE

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**Abbreviations**

1. CBO's : Community Based Organisations
2. CMIP : Consolidated Municipal Infrastructure Programme
3. EHSC : Emergency Housing Steering Committee
4. IDP : Integrated Development Plans
5. MEC : Member of Executive Council
6. NGO's : Non Governmental Organisations
7. NDoH : National Department of Housing
8. PHD : Provincial Housing Department

**1. TITLE OF THIS POLICY**

The policy shall be referred to, as “Policy guidelines on housing assistance in emergency housing situations”.

**2. POLICY BACKGROUND**

The provisions of the constitution of the Republic of South Africa mandates the state to ensure that it takes reasonable legislative and other measures in ensuring that everyone enjoys a right to adequate housing as well as social security, and appropriate assistance.

This policy is in line with the national policy on housing assistance in emergency housing situations that seeks to respond to emergency situations by providing temporary assistance.

The intention of this policy is to respond to provincial emergency housing needs as posed by unforeseen circumstances where, people find themselves in an emergency housing situation.

In November 2005, the NDoH (National Department of Housing) approved a policy regarding fast tracking the housing solution for people living in areas of stress by using the emergency Housing circumstances Programme. The pilots under the programme were to be implemented in Gauteng, the Eastern Cape and Western Cape.

This policy will be informed by extensive consultation of all relevant stakeholders, that is provincial departments, municipalities, traditional leadership and community NGO's and CBO's.

**3. PURPOSE**

The policy seek to lay grounds for the implementation of national policy on housing assistance in emergency housing situations as the District Municipality we have to develop our own tailor made policy that responds directly to our immediate environment and challenges of our largely rural Northern Cape.

Clarify processes, procedures and ensure that all the role players understand the part they have to play for the successful implementation of the programmes under this policy.

**4. OBJECTIVE**

The main objective of this policy is to facilitate programmes that will ensure provision of temporary housing relief to people in urban and rural areas within the FRANCES BAARD DISTRICT MUNICIPALITY, who find themselves in emergency situations, such as when:

- Their existing shelters have been destroyed or damaged.
- Their prevailing situation poses an immediate threat to their lives, health and safety.
- They have been evicted or face the threat of imminent eviction.

## **5. LEGISLATIVE FRAMEWORK**

- 5.1. As per section 26 of the constitution of the Republic of South Africa, Act 108 of 1996 “Everyone has the right to have adequate housing, and the state must take reasonable legislative and other measures within its available resources, to achieve the progressive realisation of this right”.
- 5.2. Section 27 (c) of chapter two of the constitution provides that “everyone has the right to- social security, including, if they are unable to support themselves and their dependants, appropriate social assistance”.
- 5.3. The policy is instituted in terms of section 3 (4) (g) of the Housing Act 107 of 1997, facilitating temporary relief assistance.
- 5.4. Disaster Management Act, 2002 (Act No. 57 of 2002).
- 5.5. Preferential Policy Framework Act, 2000 (Act No. 5 of 2000).
- 5.6. National Housing Code
- 5.7. Interim Protection of Land Rights Act, 1996 (Act No. 31 of 1996).
- 5.8. Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993).
- 5.9. Expropriation Act, 1975 (Act No. 63 of 1975).

## **6. PRINCIPLES OF THE PROGRAMME**

The following principles are applicable to the Programme:

- Assistance to be provided under this Programme will only constitute the provision of temporary aid and be of a temporary nature. The one exception would be assistance with the repair or reconstruction of damage to permanent formal housing not covered by superstructure insurance.
- In cases where the structure is made of mud and it needs repairs, such a structure must be replaced with brick and mortar on 40m<sup>2</sup> as per current subsidy quantum regardless of the previous size. However if the beneficiary wants to do own top-up as to increase m<sup>2</sup> that should be accommodated if mud won't be used again.
- Assistance will be limited to absolute essentials. It will not seek to provide housing or engineering services commensurate with those that might have been previously enjoyed.
- The national norms and standards contained in Annexure A to Chapter 3 of Part 2 of the National Housing Code shall not apply to this Programme with regard to temporary aid.
- A grant approved under this Programme will be discounted against subsequent housing subsidies only to the extent to which it might have contributed materially to a future permanent housing solution for the beneficiary. For example, the acquisition of land which is later to be used for permanent settlement and/or any engineering services installed, that will also service permanent townships.
- This Programme does not replace any other programmes of FRANCES BAARD DISTRICT MUNICIPALITY or any other National Department. With effect from

the date of implementation of the Programme contained in this policy, it will take preference over any existing provincial and municipal programmes relating to emergency housing assistance. Such programmes must be brought into conformity with this Programme.

- This Programme serves to augment and supplement existing programmes: for instance, in the case of an officially declared disaster, interaction will occur with the disaster management structure in order to augment and supplement situations of exceptional housing emergency, ***this will in no way replace any of the functions performed by the disaster management unit***, e.g., the provision of tents where necessary or the supply of water by means of tankers, and being the first unit to respond to a disaster.
- This Programme may not be employed to substitute normal planning and projects, with the subsequent so called “queue jumping” of any priority planning, approved and communicated projects, relating to the provision of housing and under no circumstances may the application of this Programme be justified to fund normal housing development projects, as provided for in the other chapters of the National Housing Code.
- Assistance under this Programme should wherever possible represent an initial phase towards a permanent housing solution.
- Where it is not possible to provide assistance at a place and in a manner that represents the initial phase towards a permanent housing solution, assistance under this Programme can be provided through the development of a temporary settlement area where feasible or practicable, while steps are being taken to prepare and develop land for permanent settlement purposes in terms of approved municipal Integrated Development Plans (IDP) and development priorities.
- Where the resettlement of families is required, the alternative location where feasible and practicable should be as close as possible to the existing one and be undertaken within the framework of the approved municipal Integrated Development Plan.
- The provision of access to land and secure tenure, basic municipal engineering services, shelter and the reconstruction and repair of damaged housing in terms of this Programme, will be in the form and adhere to the standards as described in this Chapter.
- Procurement procedures must be fair, equitable and transparent; for the acquisition of housing goods and services; and the guidelines of the Preferential Policy Framework Act, 2000 (Act No. 5 of 2000), must be followed.
- Pending national legislation, municipalities must employ their current legislation authorising the waiver of tenders and the introduction of replacement procedures appropriate for use in emergency housing situations.
- Beneficiaries of the Programme can include persons that do not comply with the requirements of Part 3, Chapter 2 of the National Housing Code.
- Situations which may qualify for consideration of assistance under this Programme should be given expeditious treatment.

## 7. APPLICATION OF THE PROGRAMME

### 7.1. Definition of Emergency Housing Circumstances

This Programme will apply to emergency situations of exceptional housing need, such situations being referred to as “Emergencies”, as defined below:

An Emergency exists when the MEC, on application by a municipality and or the provincial housing department, deems that persons affected,

Owing to situations beyond their control:

- have become homeless as a result of a declared state of disaster, where assistance is required, including cases where initial remedial measures have been taken in terms of the Disaster Management Act, 2002 (Act No. 57 of 2002) by government, to alleviate the immediate crisis situation;
- have become homeless as a result of a situation which is not declared as a disaster, but destitution is caused by extraordinary occurrences such as floods, strong winds, severe rainstorms and/or hail, snow, devastating fires, earthquakes and/or sinkholes or large disastrous industrial incidents;
- live in dangerous conditions such as on land being prone to dangerous flooding, or land which is dolomitic, undermined at shallow depth, or prone to sinkholes and who require emergency assistance;
- live in the way of engineering services or proposed services such as those for water, sewerage, power, roads or railways, or in reserves established for any such purposes and who require emergency assistance;
- are evicted or threatened with imminent eviction from land or from unsafe buildings, or situations where pro-active steps ought to be taken to forestall such consequences;
- whose homes are demolished or threatened with imminent demolition, or situations where proactive steps ought to be taken to forestall such consequences; or
- are displaced or threatened with imminent displacement as a result of a state of civil conflict or unrest, or situations where pro-active steps ought to be taken to forestall such consequences;
- Live in conditions that pose immediate threats to life, health and safety and require emergency assistance.
- Are in a situation of exceptional housing need, which constitutes an Emergency that can reasonably be addressed only by resettlement or other appropriate assistance, in terms of this Programme.

## **8. ELIGIBILITY**

Only one criterion needs to be fulfilled in order for affected persons to qualify for assistance under this Programme.

The Programme will benefit all affected persons who are not in a position to address their housing emergency from their own resources or from other sources such as the proceeds of superstructure insurance policies.

The normal standard qualification criteria contained in Part 3, Chapter 2 of the National Housing Code will not apply, in that assistance under the Programme may also be allowed in the following categories, where appropriate and justified:

- households with monthly income exceeding R3 500;
- non-lawful residents, subject to consultation with the Department of Home Affairs and to compliance with its requirements regarding continued occupancy;
- minors heading households, who are not competent to contract, and where the municipality will grant occupation rights in appropriate conditions;
- persons without dependants;
- persons who are not first-time home owners; and
- Persons who have previously received housing assistance.

Consequently searches against property registers will only be required when assistance is to be given for repair or reconstruction of damage to permanent formal housing. Persons requiring temporary assistance under this Programme may subsequently apply for subsidies for permanent housing only if they meet the standard qualification criteria, contained in Chapter 2 of this part of the National Housing Code and with due regard to priority planning and allocations.

### **9. ROLES AND RESPONSIBILITIES OF STAKEHOLDERS**

#### **The National Department of Housing**

The National Department will:

- Maintain the Programme policy and assist with interpretation thereof;
- monitor programme implementation;
- If required, establish a national co-ordinating body to address large scale emergency housing needs. Funding for this purpose will be made available from the National Department of Housing operational budget; and
- Provide assistance with the release of State Land for emergency housing purposes.

#### **Provincial Housing Department (PHD)**

The provincial housing department will be responsible for the funding and implementation of this Programme in collaboration with municipalities.

The provincial housing department must:

- Generally do everything in its power to assist municipalities to meet their obligations under this Programme;
- Collaborate with and supervise municipalities in the initiation, planning and formulation of applications for projects under this Programme;
- forward applications to the MEC together with its comments and recommendations thereon, including its views on the eligibility for assistance and the capacity of the municipality concerned to undertake and complete the project successfully, and any other aspect deemed important for decision-making in the matter;
- having due regard to the provisions of Section 7 of the Housing Act 1997 including the obligation to take appropriate steps in accordance with Section 139 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), to ensure the performance of such duties if the municipality is unable to do so, including undertaking such obligations itself;
- Assist with the evaluation of applications by the MEC;
- Reserve, reprioritise and allocate funds from its annual budget allocation and manage, disburse and control funds allocated for an approved project, in accordance with an agreement with a municipality concluded in terms of Section 12.6.6.2 of this Chapter;
- Assist municipalities with the use and implementation of accelerated planning procedures as described in Section 12.3.9 of this Chapter;
- Populate the Housing Subsidy System with the details of project beneficiaries under this Programme;
- Monitor the implementation of a project by a municipality, and
- Assume ownership of the temporary shelter provided and ensure the dismantling and safe storage of prefabricated shelter units after use, for re-use later on. The

provincial housing department may negotiate this matter with the municipality in terms of Section 13.3.11 of this Chapter.

### **Municipalities**

Under this Programme, municipalities are responsible to:

- The municipality in whose area of jurisdiction the emergency situation arose must apply via the provincial department to an Emergency Housing Steering Committee (EHSC) in the National Department, chaired by the Director General of the Department.
- Consider whether a matter merits the submission of an application for assistance under this Programme, and if so:
- Initiate, plan and formulate applications for projects relating to emergency housing situations, which in the case of municipalities, which are not accredited, must be in collaboration with and, under the supervision of the provincial housing department.
- Request assistance from the provincial housing department on any of the matters concerned if the municipality lacks the capacity, resources or expertise to address the situation.
- Submit the application to the relevant provincial housing department.
- Implement approved projects in accordance with agreements entered into with provincial housing departments in terms of Section 12.6.6.2 of this Chapter.
- Assume ownership of the engineering services installed.
- Manage, operate and maintain settlement areas developed under this Programme.
- As a precondition for approval of an application, conduct planning for the development of a permanent housing situation for affected persons, wherever appropriate.
- Ensure as far as possible the availability of bulk and connector engineering services.
- Provide basic municipal engineering services such as water, sanitation, refuse removal services and other municipal services.
- Provide materials, assistance, and support where necessary to enable the installation or repair of engineering services or the repair or construction of shelters by or for the affected persons.
- Where necessary, a district municipality must provide inputs and assistance to a local municipality, and *vice versa*.
- Ensure that situations which may qualify for consideration under this Programme are given expeditious treatment. This includes the use of accelerated land use and planning procedures as described in Section 12.3.9 of this Chapter.
- Where appropriate, assisting with the transport of affected persons and their belongings to resettlement sites.
- The Municipality will adhere to the general procedures on local project co-ordination in executing projects approved under the programme as contained in Annexure E.

**10. THE FUNDING FOR EMERGENCY HOUSING CIRCUMSTANCES**

In terms of section 12.5 of this part of the Code

- funds will be made available by the provincial departments of housing either through the reservation of funds or reprioritisation as emergency circumstances arise, to fund projects approved under this Programme; and
- The authority to consider and approve projects and the financing of such projects will vest in the Member of the Executive Council, responsible for Housing of the Provincial Government.

**11. USE OF THE GRANT**

**Activities covered by the Grant**

Subject to the rules of this Programme, assistance in the form of grants to address emergencies, will be made to a municipality by the provincial government in the form of a transfer payment for any one or more of the following activities in order to achieve the objectives of the Programme:

- Assistance to Municipalities to compile project applications;
- The purchase or lease of land, as a last resort, where the municipality has no alternative land in ownership;
- Settlement planning;
- Basic municipal engineering services design;
- Land surveying;
- The provision of basic municipal engineering services as provided for in this Chapter;
- The provision of temporary shelter or supply of materials for the construction thereof;
- The relocation and resettlement of affected persons who qualify for assistance under the Programme and who are compelled, due to circumstances beyond their control, to relocate or resettle to an approved area;
- Repair and/or reconstruction of existing damaged formal housing as well as related municipal engineering services, where required. In instances where internal reticulation services have also been damaged, the rehabilitation and repair of such services should be funded from alternative funding resources such as the Consolidated Municipal Infrastructure Programme (CMIP). Where no alternative funding is available the rehabilitation of such services could be financed under this Programme; and
- The procurement of any housing goods, services or materials, in terms of the Programme directives, or in the process of achieving any one or more of the activities set out above.

**Activities not covered by the Grant**

The approved funds may not be used for the following:

- Any bulk and connector engineering services in existing developments that were damaged or where the rehabilitation of such infrastructure is required or where new

bulk and connector services are required to address emergencies. Applications for funding can be made in terms of the Consolidated Municipal Infrastructure Programme which is administered by the Department of Provincial and Local Government for this purpose;

- Normal housing products in terms of project-linked subsidies or otherwise;
- Any litigation;
- Street lighting and electrical services, except that the provision of high-mast lighting could be considered in special circumstances;
- Refuse removal;
- Any operation, maintenance and management costs of developments; and
- Any other aspect provided for under another assistance programme of government, except where assistance from such programme is not available or appropriate;
- The repair of dams, boreholes, pumps and reticulation, the delivery of water supplies by tanker and the drilling and equipping of new boreholes, which will primarily be the responsibility of the municipality, water services authority or provider. The need for possible additional water and sanitation services provision under this Programme will need to be properly motivated and coordinated through the municipality;
- The repair of eroded access roads which will normally be the responsibility of the municipality.

**12. BREACH**

Any official entrusted with the duty of executing this policy and happen to breach it normal disciplinary steps must accordingly be followed.

**13. ACCESS**

This policy shall be made available via promotional material and on website of the department including translation into official languages common to the District Municipality.

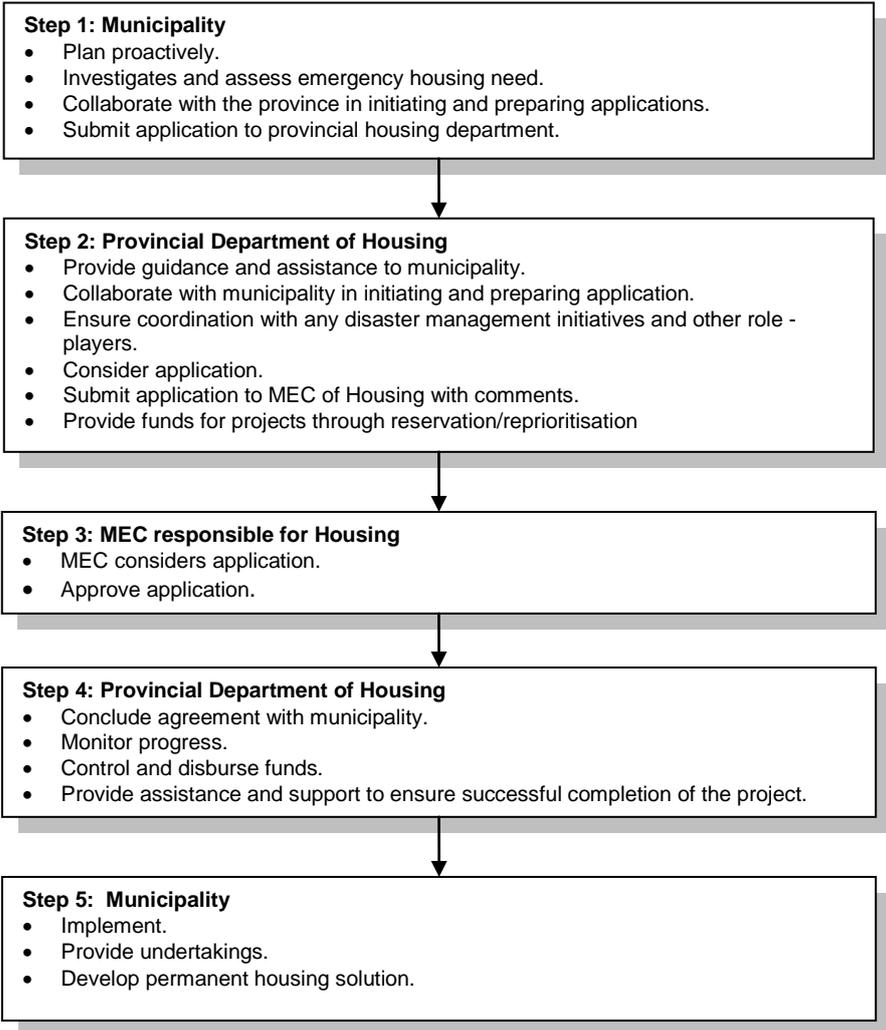
**14. MONITORING & EVALUATION**

The FRANCES BAARD DISTRICT MUNICIPALITY must ensure that its monitoring and evaluation processes are designed to achieve the desired goals of this policy. During implementation stages there is a need for consistent monitoring & evaluation of the policy as indicators will inform blockages within the policy implementation phases.

**15. REVIEW OF THIS POLICY**

For the effective management of this policy, it will be assessed in three years from its effective date.

**Figure1. Demonstrates responsibilities of Role Players within the programme**



**RECOMMENDATIONS & APPROVALS**

**Checked/Not checked  
Comments**

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MUNICIPAL MANAGER

DATE \_\_\_\_\_

**Checked/Not checked  
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Manager  
HOUSING POLICY PLANNING AND RESEARCH

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**Recommended/Not Recommended  
Comments**

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Head of Department  
Housing Northern Cape

DATE \_\_\_\_\_

**Approved/ Not Approved  
Comments**

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MEMBER OF THE EXECUTIVE COUNCIL

DATE \_\_\_\_\_