



Tamworth Borough Council

Strategic Housing Service

Policy to discharge homelessness duty into the Private Rented Sector

## Document Location

This document is held by Tamworth Borough Council and the document owner is the Corporate Director of Communities, Partnerships and Housing

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## Revision History

Revision Date	Version Control	Summary of changes

## Document Review Plans

This document is subject to a scheduled annual review. Updates shall be made in accordance with business requirements and changes and will be with agreement with the document owner.

## Distribution

The document will be available on the Intranet and the website.

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## 1. Introduction and summary of provision

Where a local authority has accepted that an applicant is homeless, eligible for assistance, in priority need and not intentionally homeless, the main housing duty is to secure suitable accommodation (unless a referral to another local authority can be made under the local connection provisions).

Up to now, most accepted homeless households have been rehoused into social housing on a secure, fixed term or assured tenancy. While the local authority's duty could be discharged by securing a privately rented property on an assured shorthold tenancy of six or more months, this could only be with the consent of the applicant (known as a 'qualifying offer'). This provision has now been repealed.

The Localism Act 2011 introduced changes that provide a power to end the main homeless duty through an offer of a suitable private rented sector private rented sector property without requiring the applicant's agreement. However, such offers must provide:

- A written assured shorthold tenancy with a minimum fixed term of 12 months and
- A 'suitable' property in reasonable condition that is managed by a 'fit and proper' person – this is defined by the 'Suitability of Accommodation Order' which can be found at the following link:

[http://www.legislation.gov.uk/ukxi/2012/2601/pdfs/ukxi\\_20122601\\_en.pdf](http://www.legislation.gov.uk/ukxi/2012/2601/pdfs/ukxi_20122601_en.pdf)

This power can be applied to households that made a homelessness application to the Council after 9<sup>th</sup> November 2012 (the commencement date).

If an applicant becomes unintentionally homeless from a private rented tenancy within two years, the Council has a continuing duty towards them and the statutory homeless duty revives, once only. This applies irrespective of any change in priority need. The revived duty may again be discharged through a further offer of private rented accommodation, in accordance with this policy.

The homelessness duty also continues to be able to be discharged through a suitable offer of social rented housing.

In order to use the regulations allowing discharge of the homelessness duty through an offer of accommodation in the private rented sector, a local housing authority must develop a clear policy on:

- How the regulations will be used and
- How the individual circumstances of each household will be considered when deciding whether to apply this option.

This Policy meets this requirement.

## 2. Policy aims and objectives

This policy operates alongside the Council's Strategic Approach to Housing set out in the Healthier Housing Strategy, the Allocations Policy, the Homelessness Prevention Strategy and Tenancy Strategy and is compliant with:

- The Housing Act 1996, as amended by the Homelessness Act 2002
- The Localism Act 2011
- Supplementary Guidance on the homelessness changes in the Localism Act 2011 and on homelessness 2012
- Equality Act 2010
- Human Rights Act 1998
- Suitability of Accommodation Order 2012
- Homelessness Code of Guidance 2006

This policy will ensure a comprehensive and consistent needs and risk assessment is carried out for each statutory homeless household, ensuring that applicants' needs are appropriately met.

This policy will also ensure that there is no discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation and an equality Impact Assessment has been completed to support this policy.

Other relevant policies are:

- The Private Sector Housing Enforcement Policy (housing conditions)
- The Bond Scheme Policy (access to accommodation)
- The Allocations Policy (access to accommodation)
- The Solutions Fund Policy (homelessness prevention)

3. How will the Council determine that a Private Rented property is suitable for discharge of homelessness duty?

The Homelessness (Suitability of Accommodation) Order 2012 and associated guidance applies.

Tamworth BC will work with private landlords to identify properties that would be suitable for discharging the Council's homelessness duty.

Any tenancy used to discharge duty must provide:

- An assured shorthold tenancy for a minimum of 12 months
- A standard written tenancy agreement with no unfair or unreasonable terms

Where an offer of accommodation is made in the Private Rented Sector the tenancy to be used by the landlord will be checked by a Housing Solutions Officer, or a Private Sector Housing Officer prior to an offer being made.

The property must:

- Be in a reasonable physical condition (free of category one hazards as a minimum)
- Have an energy performance certificate that rates the property as E or better
- Comply with gas safety regulations (has a valid gas safety certificate and carbon monoxide protection)
- Have adequate fire safety precautions
- Comply with electrical safety regulations (Portable Appliance Testing and relevant electrical certificates)
- If a House in Multiple Occupation, must comply with the HMO Management Regulations 2006

A representative of the Private Sector Housing Team will inspect the property under the Housing Health and Safety Rating System and will work with the Housing Solutions \officer to gather the relevant Gas and Electrical Safety Certificates. Where the property is outside Tamworth, a request will be made for an inspection by the local authority within which it falls.

The landlord must be a fit and proper person and must not have:

- Committed any offence involving fraud or other dishonesty, or violence or illegal drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003
- Practiced unlawful discrimination on grounds of sex, race, age, disability, marriage or civil partnership, pregnancy or maternity, religion or belief, sexual orientation, gender identity or gender reassignment in, or in connection with, the carrying on of any business
- Contravened any provision of the law relating to housing (including landlord or tenant law) or
- Acted otherwise than in accordance with any applicable code of practice for the management of a house in multiple occupation, approved under section 233 of the Housing Act 2004

The Private Sector Housing Team will check their records (or ask other local authorities to check theirs if the property falls outside Tamworth's boundary) for any indications that the landlord may not be a fit and proper person. This process will be the same as that carried out for landlords of licensable HMOs. If the property is being used to house vulnerable persons then the Council will request that the landlord submits a Disclosure and Barring Service (DBS) Check.

The tenancy deposit must be placed in a tenancy deposit protection scheme.

Tamworth Borough Council will use the Bond guarantee scheme where accepted by the Landlord. Otherwise a Discretionary Housing Payment or a Solutions Fund payment could be considered to meet the requirement for a deposit. Landlords will be asked to confirm which tenancy deposit protection scheme they use.

#### 4. Who will be considered for a discharge into the Private Rented Sector?

All households approaching the Council for assistance as homeless will undergo screening to determine their suitability for accommodation in the private rented sector irrespective of the final outcome of their homelessness application. This screening will take place at the latest within 3 working days of an application being made and the applicant informed of the result.

The screening will seek to identify any risk factors that might make the private rented sector an unsuitable solution. Examples include:



- The household has a high level of support needs and other forms of housing would be more appropriate – where this is the case then referrals will be made to supported accommodation
- The household requires an adapted property that is unlikely to be secured in the private rented sector
- The household has a history of failed tenancies in the private rented sector and is unlikely to be accepted by a landlord

Where there are no adverse indications, applicants will be informed at this point that, should their homelessness application be accepted, the Council will aim to provide a Private Rented Sector offer to discharge the Council's housing duty. The screening form is at Appendix 1 of this Policy.

Where the household has a contractual or other obligation to existing housing, the homelessness duty will not be discharged into the private rented sector until the contract or obligation is resolved.

Should additional vulnerabilities be identified during the homelessness investigation process, the screening will be reviewed and the applicant informed of the result.

## 5. Considerations when matching an applicant to a private rented property

The Council will discharge its housing duty responsibly so that households can afford the property offered to them and sustain their tenancy. Provided the applicant has been assessed as suitable for a private rented sector offer (see section 4), three further considerations will apply prior to an offer of private rented property being made and duty discharged.

### 5.1 *Property Location*

The Council will consider the suitability of the location for all the members of the household and a suitability assessment will be completed with every household when the Authority accepts a duty to house them.

Placement within the Borough will always be the first choice and the Council will try and make offers within its boundary unless specifically requested by the applicant. However there may be times where the Council will have to look at offers outside of its boundaries due to the size and geographical make up of Tamworth (For example, an offer may be made in a local

area to Tamworth, such as Fazeley or Polesworth which are both close to Tamworth and its amenities and services, but this would be considered an offer outside of the councils boundaries). Applicants may be placed further away and examples might be where a member of the household has existing work or supportive family living in a neighbouring authority. Where an exception is made, the neighbouring authority and the applicant will be notified that Tamworth Borough Council has the two year homelessness duty (see Section 7).

Tamworth is a compact area and household members should usually be able to travel within the area to work, family etc. However, consideration will be given to each member of the household's individual needs and, in particular, the practicality and cost of access to:

- Current employment or training
- Schools
- Medical facilities
- Caring responsibilities or family support.

### *5.2 Affordability*

The Council will undertake a thorough assessment of affordability of any property by the household. A financial assessment will be carried out in order to ascertain the household's income and outgoings. The form for this assessment is at Appendix 2 of this Policy. Alternatively the Authority may ask an independent agency such as Citizens Advice to carry this out on its behalf.

If the assessment shows that the private sector is affordable the Homelessness Duty may be discharged by an offer of private rented accommodation. If the household fails to meet their rental payments and is made homeless as a result, the Authority will investigate the reasons for the household's homelessness and, unless there are mitigating circumstances (such as unforeseen and unavoidable expenditure), may make an intentional decision.

### *5.3 Size and design*

The property should provide the household with sufficient bedrooms, as laid out in Housing Benefit regulations, and should not provide more than required.

Where a member of the family has a temporary or permanent disability or health condition, the property's design must be suitable for their needs.

In considering suitability, only members of the applicant's household listed on the homelessness application will be taken into account.

## 6. Offers of Private Rented Sector accommodation

The allocation of available private rented sector properties to households assessed as being suitable for such an offer will be at the local authority's discretion. At all times, the landlord of the property will have the final decision on who will be accepted into the property.

All households making a homelessness application will be placed onto the Council's housing register and their priority adjusted in accordance with the Allocations Policy. All households will be able to bid for available homes and, if made an offer prior to a suitable private rented sector property becoming available, will be able to accept this.

Accepted homeless households that are assessed as able to accept a private rented home will be made an offer of a suitable home in the following order:

1. Households that have specific needs (e.g. location or size) that are satisfied by the private rented sector offer but which may be difficult to meet in social housing
2. Households whose specific needs are or will be difficult to meet in temporary accommodation
3. Families who have been housed in Bed and Breakfast accommodation
4. The household with the oldest acceptance date

This approach provides most households with some opportunity to secure a social rented home while dissuading applicants from 'holding out' for the home they would consider ideal. In accordance with the Allocations Policy accepted homeless households that have failed to take up bidding opportunities that would meet their housing need will have bids placed on their behalf by their case worker.

### 6.1 *Refusals of offers of accommodation*

The Council has a duty to make one reasonable offer of either social or privately rented property to discharge its duty to an accepted homeless household.

If the applicant either refuses or fails to respond to a suitable offer of accommodation the Council can end its statutory duty to provide accommodation. All applicants will have this explained to them in writing at the time of acceptance.

Where the applicant refuses or fails to respond to an offer, the Council will explain:

- Their right to a review of the suitability of the offer of accommodation (see section 8)
- That they may lose their right to temporary accommodation.

This will be confirmed in writing and the letter handed to the applicant.

#### 7. New approaches from applicants previously housed into the private rented sector (the “reapplication duty”)

Under section 195A Housing Act 1996, should the applicant approach the Authority as homeless within a period of two years following acceptance of the private rented sector offer under s.193 (7AA) Housing Act 1996, irrespective of whether the approach is from the offer property or elsewhere, the Council will treat the applicant as being homeless from the date of expiry of any valid notice. A landlord will not therefore be required to apply to court to regain possession.

The Council will not reinvestigate the priority need of the household as the priority need of the applicant will be retained from the date of the original acceptance of a homelessness duty irrespective of any changes in circumstances or household composition.

The Council will satisfy itself that the applicant is:

- Still eligible for assistance
- Actually homeless or threatened with homelessness within 28 days, including that a notice to quit is valid
- Did not become homeless intentionally from their last settled accommodation.

Where the duty revives and the applicant applies to a different local authority, the applicant can be referred back to the original local authority, unless there is an identified risk of harm to the household.

The revived duty may again be discharged through a further offer of private rented accommodation, in accordance with this policy, or through an offer of social rented housing.

This duty applies only once, on the basis that each offer must be a minimum of a one-year tenancy. Where a tenancy is no longer available by reason of emergency (fire, flood etc.) the Council will consider a further application under these different circumstances.

## 8. Reviews on the suitability of accommodation offered

As part of the offer process and in accordance with Tamworth Borough Council's policies and procedures, applicants will be advised of their right to request a review on the suitability of the accommodation offered. Applicants will also be advised of services from which independent advice can be obtained.

### *8.1 Accommodation options during and after a review decision*

During the review process TBC is not legally obliged to provide the applicant with temporary accommodation. Applicants will be advised to accept the final offer of accommodation whilst the review is being considered. This is because the applicant will have somewhere to stay during the review process and there is no guarantee of a further offer of accommodation following the outcome of the review.

During the review process the property originally offered may, at the landlord's discretion, be held open whilst the review is considered.

If the review is unsuccessful and the property is still available, the applicant may be offered the property again. In this instance Tamworth BC will consider its homelessness duty discharged.

An applicant to whom the statutory homeless duty has ended as a result of their refusal or failure to respond will be able to stay on the housing register but their application will need to be adjusted to reflect their new living circumstances and their priority will be adjusted in line with the Allocations Policy.

### *Review process*

Applicants can request a review within 21 days of the local authority telling them that the Council considers an offer to be suitable and that it has discharged its duty under homeless legislation.

Review requests can be made in writing or verbally to the local authority. Tamworth Borough Council will advise the applicant of the full procedure and process for completing a review of

the suitability of the accommodation offered and will also provide this to the applicant in writing.

The Council will consider review requests received after 21 days, but will not be obliged to agree to carry out the review.

Once a review request has been received, the Council will write to the applicant to acknowledge the request.

Tamworth Borough Council will complete the review within 56 days of receiving the applicant's original review request (unless a longer period is agreed with the applicant) and a senior officer who was not involved in the original decision will carry out the review.

### *Review outcome*

The review outcome can be:

*Unsuccessful* – in this situation Tamworth Borough Council's original decision will stand and the authority will have made a suitable offer and discharged its housing duty

*Successful* – in this situation TBC will amend its original decision, and place the applicant back in Band 1 to commence bidding on Council properties again, but the Council can also make a further private rented sector offer.

Once the review has been completed TBC will write to the applicant informing them of the review decision. The outcome letter will explain the review decision, how the local authority reached this decision, and the right to appeal the review decision to the County Court if the applicant believes the decision is legally incorrect. An appeal must be made within 21 days of being notified of the review decision. (For further information on the appeals process, see below).

### *County Court appeals*

An applicant can appeal to the County Court if they feel the review decision is legally incorrect. All appeals must be made to the County Court within 21 days of the review decision. Applicants considering an appeal to the County Court are advised to obtain independent legal advice. The local authority is not legally obliged to provide the applicant with accommodation during an appeal process.

## 9. Policy Review

This document will be subject to on-going review to reflect any changes in Legislation or operational need, but must be reviewed at least every 12 months. Minor changes can be agreed by the Director of Communities, Partnerships and Housing. Where there are significant changes, or changes to legislation then this will require the appropriate governance.

## 10. Monitoring the Policy

The policy will be reviewed annually or sooner if there are any changes to legislation that may impact on the policy and its delivery

## 11. Complaints and Compliments

Tamworth Borough Council operates a policy known as Tell Us so everyone can be clear about how to compliment, comment and complain about services provided by the Council and what will happen to those comments once they are received. A copy of this policy can be found here:

[http://www.tamworth.gov.uk/sites/default/files/misc\\_docs/Tell Us policy.DOC](http://www.tamworth.gov.uk/sites/default/files/misc_docs/Tell Us policy.DOC)

## 12. More Information

If you would like further information about this policy please contact Tamworth Borough Councils Housing Solutions Service

In writing:

Marmion House,  
Lichfield Street,  
Tamworth,  
Staffordshire,  
B79 7BZ

By telephone:

01827 709709

Email:

[Housingsolutions@tamworth.gov.uk](mailto:Housingsolutions@tamworth.gov.uk)



Appendix A: Screening form for discharge into private rented sector

Separate document

Appendix B: Financial Statement

Income and expenditure form			
Date Sent:			
Name:			
Address:			
Application number:			
Personal budget			
Your income (We need to see proof of all your income.)	Weekly	Monthly	
Your wages	£	£	Please provide your employers full name and address on page 3
Your partner's wages	£	£	
Company pension	£	£	
Income Support	£	£	
Jobseeker's Allowance	£	£	
Child Benefit	£	£	
Working Tax Credit	£	£	
Child Tax Credit	£	£	
Incapacity Benefit	£	£	
Pension Credit	£	£	
Bereavement benefit	£	£	
Carers' allowance	£	£	
Other state benefits-please specify	£	£	
Maintenance	£	£	
Money from anyone who lives	£	£	

with you		
Housing Benefit	£	£
Council Tax Benefit	£	£
Student loan/grant	£	£
Insurance Payments	£	£
Other – please specify	£	£
<hr/>		
Total income	£	£
Your spending (We need to see proof of all regular spending.)	Weekly	Monthly
Mortgage payments	£	£
Mortgage protection policy	£	£
Second mortgage or a loan which your home is security for	£	£
Life assurance or endowment premiums	£	£
Rent	£	£
Council Tax	£	£
Ground Rent	£	£
Buildings and contents insurance	£	£
Utilities:		
Water Charges	£	£
Electricity	£	£
Gas	£	£
Other fuel or heating costs	£	£
Groceries & Toiletries	£	£
TV rental	£	£
TV Licence	£	£
Maintenance payments	£	£
Travelling expenses	£	£

School meals and meals at work	£	£
Clothing and shoes	£	£
Laundry	£	£
Phone	£	£
Prescriptions, dentist and glasses costs	£	£
Child's pocket money	£	£
Child minding costs	£	£
Pension payments including additional voluntary contributions (AVCs)	£	£
Pet costs	£	£
Other – please specify	£	£
<b>Total expenses</b>	£	£
<b>For office use</b>		
	<b>Weekly</b>	<b>Monthly</b>
Total income	£	£
Minus total expenses	£	£
Balance	£	£

Your debts/arrears – please show the amounts you are paying towards any debts you have.			
	Weekly	Monthly	Total Bill
Rent arrears	£	£	£
Mortgage arrears	£	£	£
Unpaid Council Tax	£	£	£
Credit card debts	£	£	£
Catalogue debts	£	£	£
Overdue water rates	£	£	£
Fuel debts: gas	£	£	£

electricity	£	£	£
other	£	£	£
Magistrates' fines	£	£	£
Unpaid maintenance	£	£	£
Other (Please list below)	£	£	£
	£	£	£
	£	£	£
	£	£	£
	£	£	£
Total debts	£	£	£

Bank and building society accounts – If you have any bank or building society accounts or other savings, tell us about them here.		
Name of bank or building society	Account number	Amount held
		£
		£
		£
		£

Further information – In the space below, give us any other information you think we need.

Employers Address:
Employers Telephone number:
Employers email address:

Contact telephone number:
Email address:

Please read and sign the declaration and return to:

Housing Solutions Team  
 Tamworth Borough Council  
 Marmion House  
 Lichfield Street  
 Tamworth  
 Staffordshire  
 B79 7BZ

Declaration

Please read the following statements and sign below. We cannot deal with your application if you have not signed it.

- The information I have given is true and complete.
- I understand that if I give information that is incorrect or incomplete, you may take action against me. This may include court action.
- I understand that you may check the information I have given on this form.
- I understand that you may use the information I have given in connection with this and any other claim I have made or may make for state benefits
- You may give some information to other organisations, such as government departments, local authorities and private companies such as banks and organisations that may lend me money, if the law allows this.
- I know that I must tell you if my circumstances change after I make this claim.

Your signature:	
Date:	/ /

Your partner's signature:	
Date:	/ /

If someone else has filled in this form for you they must fill in the section below.  
Please tell us why you are filling in this form for someone else.


I declare that I have read the information in this form back to the claimant and they have confirmed that it is a true statement of what the person asked me to write.

Name of person who filled in this form:	
Their signature:	
Relationship to you:	

## Appendix C: Procedure for assessing suitability for discharge into private rented sector

### 1. Introduction

Each application for assistance with housing will be assessed on its individual merits and no blanket policy will be applied.

All applicants must be added to the housing register, if not already registered, and the case details updated in line with the allocation policy.

Each household must complete an initial screening form (appendix A) and an income and expenditure form (appendix B). It is from these details that the case officer will make a recommendation on suitability for discharge into the private rented sector.

### 2. Assessment Process

It is essential that at assessment stage it is discussed with the applicant that the Councils Homeless Duty can be discharged with an offer into the private rented sector. It is also advisable to discuss that this offer could be out of the Borough and this in itself does not make any offer unsuitable. Using the information provided in the initial screening form the case officer will make contact with any organisation or person named on the form and confirm the level of interaction with the applicant or household member, the frequency and how the home address of the applicant is affected by this contact.

For example if the contact is all via telephone this is not location dependent, however if an applicant is required to be at a specific location frequently or at a fixed time, home address and transport must be considered when determining the suitability of any particular property. Where the specific location is outside of the Borough, for example a specialist hospital or college with a particular course that is not available locally, this can be disregarded.

Where the support can be maintained but is dependent on the additional use of transport, the cost and of this must be included in the financial statement. Officers must consider all forms of transport and this could include Community Transport.

Using the financial statement the case officer must determine if the applicant can afford a private rented sector tenancy at LHA, even if this requires the support of housing benefit.



A case officer must make sufficient allowance for day to day living costs but may disregard costs associated with additional TV packages, or particularly expensive hobbies or interests. In any case where the content of the financial statement is incomplete, inaccurate, confusing or potentially misleading the applicant must be referred to the Councils approved money advice provider for a complete statement to be provided, making clear to the applicant and the advisor the reason for the referral and cause of concern. For example this may be in a case where no rent arrears have been reported by the existing landlord but the financial statement suggests that the current address is unaffordable.

The case officer must apply common sense in determining suitability for discharge into private rented sector accommodation and must record the reason(s) for their decision on the initial screening form.

### 3. Decision

The decision on suitability for discharge must be made by the Senior Housing Solutions Officer or Housing Solutions Manager. Using the information provided by the case officer the deciding officer will either:

1. approve the recommendation made by the case officer;
2. seek additional information from the case officer to enable a decision to be made; or
3. Make an alternative decision to that of the case officer.

### 4. On approval for private rented sector discharge.

The case officer will advise the applicant that they have been approved for a private rented sector discharge in writing. This letter must provide details of how the decision has been reached, details of the available private rented sector access schemes to enable the applicant to source their own accommodation and what the Council will be doing to find private rented sector accommodation for the applicant, along with details of how to request that this decision be reviewed.

If the applicant is on the housing waiting list the case details must be updated in line with the allocation policy.

## 5. On refusal for private rented sector discharge.

The case officer will advise the applicant that they are not considered to be suitable for a private rented sector discharge in writing. This letter must provide details of how the decision has been reached and details of how to request the decision be reviewed.

## 6. Reviews.

Any applicant may request that the decision with regard to their suitability for private rented sector discharge be reviewed. The request must be made within 7 days of the decision on private rented sector suitability being notified.

The case officer must collect any and all additional information that the applicant has provided to support the review request and apply the same assessment criteria as at 2 above to the new information. A revised assessment should then be presented to the team leader or manager for decision as in 3 above.

## 7. Finding private rented sector offers

Both the applicant and the case officer must make every endeavour to find private rented sector accommodation for any applicant considered to be suitable for such a discharge.

Applicants should be provided with sufficient details of local estate agents with a residential lettings section, website addresses and any other suitable contact in the letter advising of the decision that they are suitable for private rented sector discharge, in addition the case officer must regularly monitor of all local press and suitable websites to check for suitable property.

When a suitable property is found, the case officer must negotiate with the landlord or agent to determine which of the private rented sector access schemes is going to be most appropriate in order to secure the tenancy for the applicant.

Where no suitable private rented sector accommodation is available within a reasonable period of time (reasonable will be dependent upon the circumstances of the household) the case officer may request the assistance of the Private sector housing team in securing either a property via a landlord who does not advertise or in taking a suitable property into management in accordance with the approved policy.