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### 1. Introduction

Tamworth Borough Council will actively manage Licensees' who reside in emergency accommodation provided by the Authority when discharging its homeless functions. However, when a resident leaves Emergency Accommodation provided under s188 or s193 of the Housing Act 1996 (as amended 2002) and moves into long term settled accommodation, leaving a debt on their rent account, the debt they owe Tamworth Borough Council (TBC) becomes 'Former Tenant Arrears'. This policy sets out how the Council will deal with these debts.

This policy applies to all former residents of emergency accommodation provided by Tamworth Borough Council in response to its statutory duties under s188 and s193 of the Housing Act 1996 (as amended 2002) and sits alongside Tamworth Borough Councils procedures for the collection of former tenant arrears from Council managed properties where the tenant leaves owing rent arrears or other related debts to the Council.

This policy aligns with our [Housing Strategy 2020-25](#), our [Homeless Prevention and Rough Sleeping Strategy 2020](#), and pays due regard to a range of national legislation, and it is the responsibility of the council, and its officers, to be mindful of and comply it when making relevant decisions. This includes:

- Sections 188, 193, 206, 208 and 210 of the Housing Act 1996
- The Homelessness Code of Guidance for Local Authorities

- The Homelessness (Suitability of Accommodation) (England) Order 2003
- The Homelessness (Suitability of Accommodation) (England) Order 2012
- The Homelessness Reduction Act 2017
- The Equality Act 2010
- The Localism Act 2011
- Section 17 of the Children’s Act 1989
- Section 11 of the Children’s Act 2004

## 2. Types of Temporary Accommodation

**2.1. Bed and Breakfast** - The Council uses emergency bed and breakfast placements for roofless on the day or needed during out-of-hours and uses local providers for nightly paid accommodation. Clients when entering into this type of accommodation are placed under a S188 interim duty under the Housing Act 1996 Part VII (as amended). The Council continues to have low numbers in B&B and remains on track of having no families in this type of short-term accommodation for no longer than the Government target.

**2.2 Self-Contained Units-** These are units which are sourced from the Council’s own stock. We use on average 20 units at one time. This can increase due to SWEP responses or any other emergency such as the Covid – 19 outbreak and ‘Everyone In’ Government initiative which saw these increase, however they remain a static figure all year round. We have a culmination of 1 – 3 beds that the Council uses for clients to remain in either under S188 duty or the S 193 (2) main duty in which clients remain in these properties until their final offer of accommodation whether that be Council stock or an offer in the PRSO is sourced, and the duty is discharged. For this accommodation the charge to client is the social housing rental weekly charge and they are given a non-secure license agreement whilst in these properties.

## 3. Charges

Licensees’ placed in emergency accommodation will be required to pay two charges: rent and an administration charge.

4. **Rent** – emergency accommodation can be expensive and it is not reasonable to pass these charges in full to Licensee in emergency accommodation. Therefore, the Council has set a weekly charge of [£98.08](#) for all emergency (nightly paid) accommodation. This weekly figure aligns with the maximum Housing Benefit subsidy the Council is able to claim and that the Housing Benefit team will pay towards the charges for emergency accommodation.

This figure is set by Government in the management of Housing Benefit subsidy, and should this figure change, this policy will be automatically updated in line with Government charging updates, as this is likely to be routine.

When accepting emergency accommodation, the Housing Solutions team will meet with the tenant and detail the support available to them and will provide guidance

and support to make an application to Housing Benefit. Universal Credit at present does not cover the housing element of exempt accommodation, specifically emergency accommodation, and so any tenant making a claim to Universal Credit will also need to notify the DWP of their intention to claim and make a claim direct to the Housing Benefit team at Tamworth Borough Council.

Claims should be made as soon as possible, and the tenant will be provided with information, and access to 1-1 support to make a claim. Copies of information are appended to this policy.

#### 5. Service Charges

The Council can levy a service charge for ancillary charges such as breakfast, laundry and similar. However it has chosen not to do this as they are currently benefit ineligible but will consult with licences where government legislation changes.

#### 6. Administration Charges

The Housing Act 1996 places a statutory duty on local authorities to provide temporary accommodation for applicants during the period between initial application and decision to accept or reject the application and if accepted, until the conditions for discharging duty are met. The council has a right, under the same Act to make reasonable charge for the accommodation.

Charges for the administration of emergency accommodation are set at £20.10 per week per household. These charges are payable weekly, monthly, or at the end of the license agreement providing the is no longer than Government targets for duration.

As part of the agreement to accept emergency accommodation, Licensee will be asked to make an application for Discretionary Housing payment &/or identify their preferred payment method and plan, and will be given information to set up a standing order, and methods of payment online, in person, and over the telephone.

Any tenant making a claim for Housing Benefit to cover the rent charge, will also be provided with an application for a Discretionary Housing Payment, along with support and guidance to complete this application.

The new policy has confirmed that it will levy an administration charge under the [Councils discretionary housing benefit arrangements](#). This charge is interpreted as a 'housing costs' where a claimant is unable to meet their own costs. Housing costs are broadly defined, usually covering things associated with a new tenancy, such as emergency B&B support and pursuing settled accommodation – the list is not exhaustive.

## 7. Notice of offer

Within two working days of being offered emergency accommodation, the housing solutions team will provide the tenant with a statement of rent and administration charges. This statement details the weekly rent payable, the amount and frequency of the administration charge and a full explanation for the administration charges and the tenant's right in relation to both charges.

The notice of offer will also include information on support available. This will include details on how to apply for Housing Benefits and Discretionary Housing Payments, how and where to find financial counselling, mental health support, and support to find longer-term accommodation. The notice of offer will include details of recovery of outstanding balances, but the emphasis will remain on preventing arrears, accessing Housing Benefits and other avenues of financial support, and encourage regular dialogue between the tenant and the housing solutions team should there be any issues in making any payments.

## 8. Arrears during a tenancy

Time spent in emergency accommodation should be limited and as brief as possible. During time spent in emergency accommodation, the housing solutions team will be in regular contact with the tenant and will provide ongoing support and assistance for financial support such as making a claim to Housing Benefits. If the tenant has not yet made a claim, the housing solutions officer will discuss options and barriers to claiming and will make arrangements for a Housing Benefit claim appointment with the Council's customer services team.

The accumulation of arrears during a tenancy threatens the security of the place in emergency accommodation, and the housing solutions team aims to prevent terminating a stay in emergency accommodation by providing access to financial advice and support to claim Housing Benefit.

## 9. Balance at the end of tenancy

It is the responsibility of the Housing Solutions Officer to ensure a clear rent account is achieved prior to the termination of the accommodation. Where the rent account is clear a letter will be issued with a rent statement to this effect advising the customer that their account is clear and that there are no arrears outstanding.

When leaving emergency accommodation, the Housing Solutions team will contact the tenant to inform them of any outstanding arrears for either rent or administration charges. During this contact, any outstanding claims for Housing Benefit or Discretionary Housing Payments will be reviewed, and if a claim has not yet been made, the tenant will be given support to make a claim.

The Housing Solutions Team will confirm, in writing, the amount owed, the options available to the former tenant for making claims to Housing Benefit and Discretionary Housing Payments, and will be given an outline payment plan for payment if a claim is not made which meets the arrears, or a claim is made but does not cover the charges in full.

A letter will be sent to the forwarding address of the tenant.

If, after 28 days, no payment is received, the former tenant will receive a second reminder for all outstanding balances and again urged to make any outstanding claims for benefits.

If after a further 28 days, no contact or payment has been made, the account will move to account recovery.

## 10. Post-tenancy Arrears

Collection and recovery of arrears. It is important to be seen by residents that all debts will be pursued; this sends out a clear message that the authority takes a firm approach to the collection of debts.

The former licensee debt recovery process starts when a client's period of occupation has ended and they have left the emergency accommodation. The stages below provide an outline of the recovery process with further detail as shown in the flow chart.

Each outstanding balance will be considered on a case-by-case basis and the following will be considered by the Councils corporate income recovery team when proceeding with recovery of outstanding arrears. The housing solutions officer will pass over the former licensee account with details of payment planning and the following steps will then be reviewed by the sundry debtor team.

1. The level of arrears. Any arrears under £150 may not be economical to recover. The officer will need to take payment history, levels of vulnerability, and current housing and income into account when considering recovery. Should it be considered unrecoverable, the account balance will be written off, with approval for all individual write-off delegated to the head of homelessness and housing solutions.

2. Arrears over £150 will be pursued:

It is Tamworth Borough Council's intention to minimise former tenant arrears from emergency accommodation through the effective management of handling of current arrears, however, a certain amount of former tenant arrears will inevitably accumulate. Tamworth Borough Council will investigate the reasons for any arrears and where possible will take the necessary action to use an enforcement agency for any amount £150 or over to recover the debt. The process for this includes:

- a. A final written notice will be sent to the former tenant requesting payment in full, or the establishment of a payment plan with an accompanying upfront payment.
- b. Payment plans will be for no longer than 12 months, and will consider the income and capability to pay using an income and expenditure form provided. In exceptional circumstances, the Council will accept a lower

offer of payment, and this will be discussed and agreed by the housing solutions officer and the former tenant.

- c. Should the former licensee not respond to the final written notice, or not enter into a payment plan, the Council will consider instructing a debt collection agency after a period of six months. Considerations for vulnerable Licensee, and the level of arrears will be made and all former Licensee will be informed of the intention to instruct a debt collection agency or pursue further recovery options.
- d. Any arrears not sent to a collection agency may be considered for write-off or alternative recovery such as through attachment orders, County Court Judgements and orders placed on property. This will be done only in cases where arrears are over £1,000, where all attempts at alternative recovery have been exhausted and there is no known levels of vulnerability preventing the former tenant from paying their arrears.

Recovery options available to the Council include:

- Small Claims Court and associated enforcement,
- Department of Work and Pensions arrears direct payments,
- tracing agencies,
- enforcing money judgements and recovering all associated costs.

The Council will accept a minimum weekly payment of the sum that could be collected via direct payments from the Department of Work and Pensions, currently £3.70 per week as an acceptable method of repaying debt via instalments. However, this is the minimum amount for those on income related benefits such as Universal Credit.

## 9. Management of arrears balances

The housing solutions team will conduct an account check at 4-week intervals to identify any payments made against arrears from Housing Benefits, or from the former tenant either as a lump sum or as part of an agreed payment plan.

The housing solutions team will write to the former tenant at intervals of 12 weeks for a maximum of 24 months from the end of the tenancy. Letters sent will outline the current arrears balance, payment options, financial advice, and details of how to make payments.

## 10. Accounts in credit

It is the responsibility of the Housing Solutions Officer to ensure a clear rent account is achieved prior to the termination of the accommodation. Where the rent account is clear a letter will be issued with a rent statement to this effect advising the customer that their account is clear and that there are no arrears outstanding.

If there are any credits on the account and there are no arrears on other housing accounts for the former tenant then this credit will be offered to the former tenant as a payment with options to credit a current rent account if they hold one.

## 11. Disputes

If any part of the debt is disputed, the correct balance should be verified before any further action is taken. The former tenant or their nominated representative will receive a letter of explanation along with an offer of a payment plan.

## 12. Complaints

Complaints about this policy, or the administration of any arrears balances will be dealt with in accordance with the Council's complaints procedure.

## 13. Referring case for 'Write Off'

Write offs will be actioned in accordance with the Housing Solutions Service Write off Procedure and in line with the following criteria: .

- Tenant Declared Bankrupt Official documentation must be received and kept on file, copy to be supplied with write off request.
- Debt Relief Order When the twelve-month moratorium period has passed arrange for the sum(s) in the sub account(s) to be written off as the Council cannot pursue these sums any further. (see separate procedure on Debt Relief Orders)
- Outstanding Credit On an account and the current address for former tenant is not known/unable to trace. The credit will remain on the system for a period of 18 months.
- Unable To Trace No forwarding address can be traced for a period of 18 months. All traces have been completed in accordance with the procedure document.
- Uneconomic To Pursue The debt is below £150 and is uneconomical to pursue.
- All Recovery Action Has Been Exhausted Incorporating cases returned by the Debt Collection Agency which are unable to trace/collect or when it is uneconomic to pursue through legal recourse.
- All relevant recovery procedures have been completed without success and the likelihood of further recovery is considered negligible.
- Special Cases Where there is a special reason for the debt to be written off, then a declaration form should be completed by a nominated representative and held on file.
- Statute Barred The debt is six or more years old and the circumstances are such that it is inappropriate to seek leave of the court to enforce the debt.
- Re-instated Cases Circumstances may occur which lead to a fresh opportunity to recover debt previously written off. Written confirmation of the debt will be sought from the debtor and a payment arrangement agreed. However, the debt will not be re-instated into the system (written on) until payments under the agreed arrangement have been made to a level where the Housing Solutions Service is satisfied that they are sustainable. It will then be the responsibility of the Housing Solutions Officer to re-instate the debt.

## 14. Review

As a general rule, the policy should be reviewed every two years unless legislation is introduced to warrant an earlier review, next review is due April 2025.