

# **Housing Allocations Policy**

**FINAL: July 2021**

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## Version Control

### Revision History

<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Changes</b>
1.0	4 <sup>th</sup> January 2017	Gemma Sidaway Rae Mann Claire Keeling	Major changes to existing scheme
2.0	5 <sup>th</sup> February 2018	Gemma Sidaway Rae Mann Sarah Finnegan	Changes to accommodate the Homelessness Reduction Act 2017
3.0	5 <sup>th</sup> November 2018	Gemma Sidaway Joanne Mallaband	Changes to reflect feedback from HQN Tim Brown
4.0	1 <sup>st</sup> November 2019	Gemma Sidaway	Changes to reflect Legal Advice
5.0	8 <sup>th</sup> July 2021	Gemma Sidaway Joanne Mallaband Sarah Finnegan	Changes to incorporate Eligibility amendments, Domestic Abuse Act and guidance on improving access to social housing for armed forces

### Approvals

<b>Name</b>	<b>Title</b>	<b>Approved</b>
Cabinet	Allocation Policy	24.01.2019
Health and Wellbeing Scrutiny Committee	Allocation Policy	15.10.2019
Full Council	Allocation Policy	19.11.2019
Cabinet	Allocation Policy Update	08.07.2021

### 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.

**It is a criminal offence to obtain accommodation from the Council or any other social housing provider by knowingly and recklessly giving a false statement or deliberately withholding information. By doing so you may be prosecuted and fined.**

**The Council or other Registered Provider will seek possession of any tenancy granted as a result of information later found to be false or misleading. Any offer of accommodation maybe withdrawn or result in an application being cancelled and an applicant being disqualified from the housing register.**

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## 1. Introduction

- 1.1. Every local Housing Authority is required to have a Housing Allocations Scheme, which is also known as the Authority's Allocations Policy. This document is Tamworth Borough Council's (the Council's) Allocations Scheme in accordance with the requirements of The Housing Act 1996 (Part VI) as amended. The Allocations Scheme determines priorities and defines the procedures to be followed in allocating social housing<sup>1</sup>.
- 1.2. This Allocations Scheme sets out in detail who is and who is not eligible for housing, who is qualified to join the scheme and how this assessment is made. It also sets out how applicants can apply for and access housing and what service standards an applicant can expect.
- 1.3. The policy also provides advice on other housing options that applicants are advised to consider.
- 1.4. Tamworth Borough Council operates a Choice Based Lettings (CBL) scheme called Finding a Home, which can be accessed online at [www.findingahometamworth.co.uk](http://www.findingahometamworth.co.uk) . Finding a Home Tamworth is independent from the Council's website and is focussed on housing options.
- 1.5. This document explains how the Council will allocate its properties and make nominations to registered provider landlords within the Borough where the Council has nomination rights. However, individual registered providers will have their own policies, and these will apply where appropriate.
- 1.6. Registered providers which may advertise properties through finding a home include:
  - Platform Housing Group (previously Waterloo Housing) [www.platformhg.com](http://www.platformhg.com)
  - Derwent Living [www.derwentliving.com](http://www.derwentliving.com)
  - Midland Heart [www.midlandheart.org.uk](http://www.midlandheart.org.uk)
  - Hanover Housing Association [www.hanover.org.uk](http://www.hanover.org.uk)
  - Orbit [www.orbithomes.org.uk](http://www.orbithomes.org.uk)
  - Metropolitan Thames Valley [www.metropolitan.org.uk](http://www.metropolitan.org.uk)
  - Walsall Housing group [www.whg.uk.com](http://www.whg.uk.com)
  - Clarion Housing Association Limited [www.myclarionhousing.com](http://www.myclarionhousing.com)
  - Bromford Living [www.bromford.co.uk](http://www.bromford.co.uk)
  - Sage Housing [www.sagehousing.co.uk](http://www.sagehousing.co.uk)

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<sup>1</sup> Social housing includes council owned housing and housing association (referred to as Registered Providers) homes that are let under a nominations agreement with the Council.

- 1.7. A copy of the Allocations Scheme is available free of charge. A summary is available routinely to everyone making an application for social housing.
- 1.8. Advice and assistance relating to access to housing is also available free of charge from the Housing Solutions team based at Marmion House, Lichfield Street, Tamworth, Staffordshire (telephone 01827 709709 or email [housingsolutions@tamworth.gov.uk](mailto:housingsolutions@tamworth.gov.uk)).
- 1.9. Anyone can approach the Housing Solutions service for advice and assistance. However, social housing in Tamworth is very limited, and the Council no longer holds an 'open' register'. Instead, the Council operates a 'managed register', which requires applicants to meet qualification criteria. Where an applicant does not qualify to join the housing register, the Council will still provide advice and assistance, which can include signposting and referring the applicant to alternative routes into housing where possible and where appropriate.
- 1.10. This Allocations Scheme is focussed on the assessment of applications for the housing register, and it is not a statement of how the Council deals with homelessness. Whilst there are references made to the provision of homelessness within this scheme, there are separate processes and procedures for dealing with homeless applications. The Council has a Homelessness Prevention Strategy which sets out how the Council aims to prevent Homelessness within the borough and this document and supporting evidence can be found on the Council's website: [www.tamworth.gov.uk/housing-policies](http://www.tamworth.gov.uk/housing-policies).

## **2 Definition of an 'allocation' of accommodation**

### **2.1 *What is an Allocation?***

The Housing Act 1996 as amended provides that the Council allocates housing accommodation when they<sup>2</sup>:

- Select a person to be an introductory or secure tenant of housing accommodation held by the Council
- Select a person to be a fixed term tenant of housing accommodation held by the Council
- Nominate a person to be an introductory or secure tenant of housing accommodation held by another housing authority
- Nominate a person to be a starter tenant (also known as probationary) or assured tenant of housing accommodation held by a Registered Provider

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<sup>2</sup> S159 Housing Act 1996 as amended by the Homelessness Act 2002

## **2.2 What is not an Allocation?**

Secure, introductory or demoted tenancies arising in the following circumstances are not covered by the allocations provisions of the Act<sup>3</sup>, and therefore fall outside of the scope of this document. These are contained within the revised Tenancy Management Policy (2009):-

- Succession to a tenancy on the death of a previous tenant
- Assignment of a tenancy by way of a mutual exchange
- Assignment of a tenancy to a person who would be qualified to succeed to the tenancy on the death of a current tenant
- Transfer of the tenancy pursuant to a court order under family law or the Civil Partnership Act 2004
- Where a person becomes a secure tenant on ceasing to be an introductory tenant.

## **2.3 Transfers**

Transfer tenants (Tamworth Borough Council tenants) who do not have an identified housing need in accordance with the Allocations Scheme must pursue mutual exchanges and will not be ordinarily entitled to join the housing register.

Tenants with identified housing needs and who would usually be considered to be owed a 'reasonable preference' such as medical priority or would be considered to have a housing need under the terms of the policy for example overcrowding or under-occupancy are eligible to join the housing register and can also pursue mutual exchanges.

For transfer applicants the Council will expect a clear current rent account before the tenant is allowed to move and they will also be required to have a property inspection to ensure there have been no breaches of the tenancy.

## **3 Legal Framework**

3.1 Legislation relating to allocation schemes is set out in the following:

- Housing Act 1996 (as amended 2002)
- Homelessness Act 2002

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<sup>3</sup> S160 Housing Act 1996 as amended by the Homelessness Act 2002

- Localism Act 2011
- Allocation of accommodation: Guidance for local housing authorities in England (Ministry of Housing, Communities and Local Government 2021 [MHCLG])
- Right to Move- Statutory guidance on social housing allocations for local housing authorities in England 2015 (DCLG)
- Guidance on Improving access to social housing for members of the Armed Forces 2020 (MHCLG)
- Domestic Abuse Act 2021

3.2 When framing the allocations policy further guidance has been sought from:

- Homelessness Reduction Act 2017
- Homelessness Code of Guidance for Local Authorities
- The Council's Housing and Health Strategy
- The Council's Homelessness Prevention Strategy
- The Council's Tenancy Strategy

3.3 The Housing Act 1996 (as amended) requires all Local Authorities to give '**reasonable preference**' to certain groups of people who are in most housing need<sup>4</sup>. These groups are set out as follows;

- All homeless people as defined in Part VII of the Housing Act 1996, including people who are intentionally homeless and those who are in priority need.
- People who are owed a duty by any local housing authority under section 190(2), 193(2), 195(2) (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any such authority under section 192(3)
- People occupying unsanitary, statutory overcrowded or otherwise unsatisfactory housing
- People who need to move on medical or welfare grounds (including grounds relating to a disability)
- People who need to move to a particular locality within the district to avoid hardship to themselves or others

3.4 In framing this Housing Allocation Policy the Council is also required to have regard to the following considerations:

- The scheme must be framed so as to give reasonable preference to applicants who fall within the categories set out in s.166a of the Housing Act 1996 over those who do not;

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<sup>4</sup> S166a (3)

- Whilst there is no requirement to give equal weight to each of the reasonable preference categories, housing authorities should demonstrate why applicants are given a particular priority;
- There is no requirement for housing authorities to frame their scheme to afford greater priority to applicants who fall within more than one reasonable preference category (cumulative preference) over those who have reasonable preference on a single non-urgent basis.

Local authorities can give additional preference to other groups of people who have a reasonable preference, if they have urgent housing needs. The Allocations Code of Guidance<sup>5</sup> provides the following examples to whom housing authorities should consider giving additional preference within their allocation scheme because they have an urgent need to move:

- Those who need to move urgently because of a life threatening illness or sudden disability
- Families in severe overcrowding which poses a serious health hazard
- Those who are homeless and require urgent re-housing as a result of violence or threats of violence, including intimidated witnesses, and those escaping serious anti-social behaviour or domestic violence

3.5 The Social Housing White Paper: The Charter for Social Housing residents was published by MHCLG (Ministry of Housing, Communities and Local Government) in November 2020. A wider review is currently being undertaken by the Council on this regard. Whilst no changes to the policy have been amended currently this remains under review. The Council remains committed in light of this paper, to ensuring the allocation of accommodation is done in the fairest way possible, and access to suitable homes for disabled people can be improved. This policy further helps to ensure priority is balanced and confirms the priority that would be given to ensure accommodation is allocated fairly and equitably. The process is further transparent with letting results also published.

As part of the Social Housing white paper the Council also remains committed to;

- Improve joint working with housing associations to ensure that social housing is allocated efficiently
- Remove barriers to accessing social housing for homeless households
- Ensure that vulnerable households are able to navigate allocations systems

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<sup>5</sup> Allocation of accommodation: statutory guidance for local authorities 2021 (MHCLG)

## 4 Housing Options

There is a shortage of housing in the borough of Tamworth and demand far exceeds supply. Unfortunately it is not possible for the Council to re-house everyone who applies. This means that there is likely to be a lot of people bidding when properties are advertised. Those people with the most urgent need and those that fall into the priority groups listed above receive the highest priority.

Due to this shortage there are other housing options available which might help applicants move to a more suitable property for them. Here are some other housing options you may wish to consider:

### 4.1 Mutual exchanges for social tenants

If you are the tenant of a local authority or a housing association, mutual exchange or swapping properties with other tenants gives you the best chance of moving.

You can exchange your property with any other social housing landlord's tenant, anywhere in the country. The Council has developed a mutual exchange service for its tenants which runs through the House Exchange website [www.houseexchange.org.uk](http://www.houseexchange.org.uk) . This service is free for Tamworth Borough Council tenants to register on.

If you are looking to move for work or to be near to family and friends, House Exchange is a national service which means that you will be able to see homes across of the whole of the UK, not just in Tamworth.

You can exchange with other social housing tenants if everybody involved in the exchange process agrees. Normally an exchange will be agreed by the Council providing:

- Both properties are the right size for the incoming family's needs
- Neither party is having legal action taken against them for breaking their tenancy

If you are not a Tamworth Council tenant please contact your landlord as they will have their own mutual exchange service.

## 4.2 Low Cost Home Ownership/ Help to Buy options

If you are interested in owning your own home then there are schemes which are backed by the government which may be able to assist. More information on help to buy options can be found on [www.helptobuy.gov.uk](http://www.helptobuy.gov.uk) .

### ➤ Shared Ownership

If you are interesting in registering for shared ownership properties you can apply to help to buy midlands. More information on what this entails and how to apply is found on [www.helptobuyagent2.org.uk/help-to-buy-schemes/shared-ownership](http://www.helptobuyagent2.org.uk/help-to-buy-schemes/shared-ownership)

Shared Ownership is a great opportunity for those who want to get a foot on the property ladder but can't afford to buy a home outright on the open market. The scheme gives you the chance to buy a share in a brand new leasehold property (either a house or an apartment) on a part buy/part rent basis.

You buy a share of between 25% and 75% of a home from a registered provider, usually a housing association. You then pay a subsidised monthly rent to the housing association for the remaining share.

### ➤ Help to buy Equity Loan

The scheme helps you to buy a newly-built home with an equity loan of up to 20% of the full price of the property. Interest charges on the loan are not paid for the first 5 years and you own 100% of your own home from the start.

The Help to Buy Equity Loan scheme is open to both first time buyers and existing homeowners.

More information on how this scheme works, who is eligible and how to apply can be found on [www.helptobuyagent2.org.uk/help-to-buy-schemes/equityloan](http://www.helptobuyagent2.org.uk/help-to-buy-schemes/equityloan)

## 4.3 Private renting

The Council is not able to help everyone who registers for re-housing as demand far exceeds the supply. Considering moving to private rented

accommodation allows you to decide where you move to, what type of property you move to and when you move.

There are many Internet sites that are very good with up to date properties to rent, including<sup>6</sup>:

Right Move	<a href="http://www.rightmove.co.uk">www.rightmove.co.uk</a>
Zoopla	<a href="http://www.zoopla.co.uk">www.zoopla.co.uk</a>
Gumtree	<a href="http://www.gumtree.com">www.gumtree.com</a>
Spare Room	<a href="http://www.spareroom.co.uk">www.spareroom.co.uk</a>
Loot	<a href="http://www.loot.com">www.loot.com</a>
Property Wide	<a href="http://www.propertywide.co.uk">www.propertywide.co.uk</a>
Home	<a href="http://www.home.co.uk">www.home.co.uk</a>
DSS move	<a href="http://www.dssmove.co.uk">www.dssmove.co.uk</a>
On the Market	<a href="http://www.onthemarket.com">www.onthemarket.com</a>

Additionally, you may be able to find private rented accommodation through a letting agent which may save a lot of time. It is worth remembering that letting agents may require you to have the finances available to be able to secure the property, whilst fees they can charge are restricted under the Tenant Fees Act 2019 they may still require money for a deposit, rent or have a rent guarantor and you may also have to be able to provide references. You will find letting agents listed in the local papers, Yellow Pages, or Thompson Local or on [www.zoopla.co.uk/find-agents/letting-agents/tamworth/](http://www.zoopla.co.uk/find-agents/letting-agents/tamworth/)

If you have difficulties in securing private rented accommodation, the Housing Solutions team may be able to assist you. Please email [housingsolutons@tamworth.gov.uk](mailto:housingsolutons@tamworth.gov.uk) or call 01827 709709 for more information on the assistance that we may be able to provide.

#### **4.4 Adaptations**

If you would prefer not to move home, but are looking to do so because you or a member of your household are disabled or have a chronic illness that affects

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<sup>6</sup> Correct as of April 2021

your housing requirements, you may like to consider having your current home adapted to meet your needs.

There may be financial assistance that can be provided to help you do this, depending on your circumstances, in the form of a disabled facilities grant. Further information on disabled facilities grants can be found on the website: [www.tamworth.gov.uk/grants-housing](http://www.tamworth.gov.uk/grants-housing)

Self –referrals can be made to Staffordshire Cares for an occupational therapy assessment of your property and your needs. This assessment may then help indicate what additional support or adaptations may be required by you. Applicants may wish to contact Staffordshire Cares to arrange this by telephone 0300 111 8010 or by email: [staffordshirecares@staffordshire.gov.uk](mailto:staffordshirecares@staffordshire.gov.uk)

Alternatively, if you are a Council tenant, speak to your tenancy sustainment officer or if you are a tenant of a housing association speak with your estate manager or housing officer.

If you are a homeowner or private tenant, please contact the Housing Solutions Team on [housing-solutions@tamworth.gov.uk](mailto:housing-solutions@tamworth.gov.uk) 01827 709709.

#### **4.5 Help and Advice**

The Housing Solutions Team can offer specialist housing advice to help you keep your current home, source alternative accommodation or provide advice on alternative housing options.

Assistance may be provided by but not limited to:

- Mediation services
- Referrals to supported accommodation
- Advice on joining the housing register and applying for social rented accommodation
- Advice to those threatened with homelessness
- Assistance to obtain private rented accommodation
- Specialised housing options for victims of domestic abuse

A wealth of advice on housing options can be found on [www.findingahometamworth.co.uk/content/HousingOptions/](http://www.findingahometamworth.co.uk/content/HousingOptions/)

## 4.6 Housing Associations

The Council has nomination rights to most of the housing associations with properties across the Borough. The Council will generally have 50% nomination rights to offers of accommodation made by Housing Associations within the Borough.

This means that we advertise properties from time to time that belong to another landlord. You can place a bid on these and the landlord lets to the applicant know if they have been successful.

The Registered Providers which nominations may be made to include:

- Platform Housing Group (previously Waterloo Housing) [www.platformhg.com](http://www.platformhg.com)
- Derwent Living [www.derwentliving.com](http://www.derwentliving.com)
- Midland Heart [www.midlandheart.org.uk](http://www.midlandheart.org.uk)
- Hanover Housing Association [www.hanover.org.uk](http://www.hanover.org.uk)
- Orbit [www.orbithomes.org.uk](http://www.orbithomes.org.uk)
- Metropolitan Thames Valley [www.metropolitan.org.uk](http://www.metropolitan.org.uk)
- Walsall Housing group [www.whg.uk.com](http://www.whg.uk.com)
- Clarion Housing Association Limited [www.myclarionhousing.com](http://www.myclarionhousing.com)
- Bromford Living [www.bromford.co.uk](http://www.bromford.co.uk)
- Sage Housing [www.sagehousing.co.uk](http://www.sagehousing.co.uk)

The lettings criteria for other landlords may differ to that of Tamworth Borough Council. Please make sure you read and understand who is able to bid on each nomination property before you make your bid. The property advert will list information on the landlord of the property and also the lettings criteria specific to that landlord. Whilst Housing Associations will retain their own lettings criteria they must give due regard to this Allocations Policy when making decisions.

Applicants may wish to contact registered providers directly to establish what their lettings policies are and if they allocate properties through any other means they may be able to access.

Housing Associations may also make direct allocations in accordance with their own policies and procedures.

## 5 Aims of the Scheme

5.1 The aims of this scheme are to:

- Enable applicant choice and informed decision-making, which encourages applicants to pursue all housing options which are open to them including supported housing, affordable housing, and affordable home ownership.
- Ensure social housing is allocated and prioritised to those who are in most housing need, and thus help prevent homelessness
- Comply with statutory obligations, government policy and guidance from government and ensure that all allocations of properties are equitable, fair and transparent.
- Contribute to the council's strategic priorities namely living a quality life in Tamworth, growing strong together in Tamworth and delivering quality services in Tamworth.

### **How do we know whether this scheme is achieving our objectives?**

- 5.2 We will carry out annual impact assessments of the scheme to check whether it is still achieving its aims.
- 5.3 The Council recognises that people need to understand how social housing is allocated to inform their decisions about housing. We will therefore communicate information about this scheme and how it is delivering through:
- Dedicated web and online information, including performance information
  - Regular articles in the Council's Landlord publication Open House
  - Regular dialogue with tenants' through tenants forums and involvement groups
  - Monitoring customer satisfaction
- 5.4 This allocations scheme has been framed in accordance with equality legislation. The Equality Impact Assessment will be attached as an appendix to this document.

## **6 Applying to join the housing register**

### **Who Can Apply?**

- 6.1 In order to be considered for an allocation and take part in the choice based lettings scheme, a person/household has to be registered on the Council's Housing Register.

Anyone can apply to join the Housing Register however not all applications will be accepted onto it. The Council will consider each application on the basis of whether they:

- Are eligible to apply for housing

- Qualify under the scheme rules
  - Have housing need within the reasonable preference categories or within additional preference categories incorporated within the policy.
- 6.2 The eligibility and qualification criteria are set out in sections 7 and 8 of this policy – people who intend to apply should check whether any of these apply to them and their household.
- 6.3 Multiple or duplicate applications for the same household are not allowed.
- 6.4 Applications due to Domestic Abuse will be handled as per any requirements provided in the Domestic Abuse Act 2021.

### **Who can and cannot be included on the application form**

- 6.5 The Council will accept single and joint applications. Joint tenancies will only be granted between husbands/wives/civil partners/un-married couples or between siblings. Additional persons who can be included on a housing application must be members of the applicant's immediate family who normally live with the applicant. Any other person will only be included on an application if the Council is satisfied that it is reasonable for that person to live with the applicant for example, emerging families. This will exclude lodgers or anyone subletting from the applicant. Anyone over 16 years of age included on an application as part of a household will also be included in the full assessment of the application including income, capital and assets.
- 6.6 Children of applicants are only allowed on the application of the parent who has residency of the child(ren) and to whom Child Benefit is paid. For the purposes of this scheme a child is defined as someone who is either under the age of 18 or who is still dependant on the applicant e.g. due to continuing education. Where a Child Benefit award letter can no longer be provided the Council will accept a bank statement addressed to the applicant clearly showing the correct amount being paid directly by Child Benefit as long as there is also proof of relationship for example, a child's long birth certificate to show the parentage of the child.

### **Applications from Councillors, board members, employees and their close relatives**

- 6.7 Councillors or members of the board of a Registered Provider working with the Council as well as employees of Tamworth Borough Council and their close relatives (parents, children, spouse or former spouse) can apply to the housing register.
- 6.8 In order to ensure that the Council is seen to be treating all applicants fairly, any application for housing or re-housing from Members of the Council, employees of the Council, or associated persons must disclose their

relationship at the point of application or if circumstances change, after the initial application has been submitted.

- 6.9 All applications will be assessed in line with this policy, and shall be treated equitably and fairly. The Council will neither give an advantage to, nor disadvantage, an applicant falling into this category. All such applications that are processed will be notified to management so they can be signed off by a senior officer in the housing solutions team. Furthermore, prior to any offer of accommodation being made to any application of this nature, approval from the Executive Director of Communities will be required or those with delegated powers of responsibility, in line with the Disclosure Policy of the Council, which will be attached as an appendix to this policy.

### **Applicants under 18 years Old**

- 6.10 Applicants aged 16 or 17 will not normally be able to join the housing register. The only exceptions to this are as follows:
- Where a statutory homelessness duty is owed
  - For care leavers 6 months before their 18<sup>th</sup> birthday to allow the Council to work with them effectively to help source suitable alternative accommodation to try and prevent them from becoming homeless.
  - Where the applicant has been accepted into supported accommodation provided by the Council and there is a requirement for the application to be processed to enable the occupant to pay rent and other charges.
- 6.11 All efforts, including family mediation, referrals to supported accommodation will be made to prevent homelessness and assist young people to achieve an appropriate housing solution to meet their need.
- 6.12 Where an applicant under 18 is unable to join the housing register but is threatened with homelessness full advice and assistance will be offered to the young person for them to return home where it is safe for them to do so or for alternative accommodation to be sourced for them.
- 6.13 The Council has signed a joint protocol with partners across Staffordshire local authorities and the County Council for homeless 16/17year olds. The aim of this protocol is to ensure a county wide approach to assist the 16 or 17year old and to help prevent their homelessness. As part of this protocol there is an agreement in place for joint assessments to be completed with colleagues from Staffordshire County Council. The Council will make the relevant referrals to enable this to happen.
- 6.14 As a 16/17 year old cannot hold a tenancy in law, there will also be a requirement for a 16/17 year old to have an approved person to act as their trustee in relation to the tenancy agreement. This would normally be a family member or other suitable third party.

## **7 Eligibility**

- 7.1 The statutory eligibility criteria for social housing are set out in section 160ZA (1-5) of the Housing Act 1996, as amended by the Localism Act 2011.
- 7.2 An applicant may be ineligible for an allocation of accommodation under section 160ZA (2) or (4). Authorities are advised to consider applicants' eligibility at the time of the initial application and again when considering making an allocation to them, particularly where a substantial amount of time has elapsed since the original application was made.

### ***Persons from abroad who are not eligible to join the register***

- 7.3 The following persons are not eligible to join the register:
- People who are "subject to immigration control" (unless they fall within a class prescribed by regulations made by the Secretary of State (section 160ZA(2))
  - People who are not subject to immigration control, but are nevertheless prescribed by regulation as being "persons from abroad" (this may include British citizens who are not habitually resident in the UK)
  - Any other person as prescribed by the Secretary of State.
- 7.4 If a person who has been admitted to the register ceases to be eligible under the above criteria, he or she will be removed from the register with immediate effect.
- 7.5 There are new eligibility rules for EEA persons and their families, which apply from the 1<sup>st</sup> January 2021. There is a grace period which applies between 1 January 2021 and 30 June 2021. Further changes in the rules then apply after the 30 June 2021. EEA persons and their families should seek advice on their eligibility.

EEA persons and their families are encouraged to apply for settled status or pre settled status to reside within the UK.

## **8 Qualification**

- 8.1 The Council will only allocate to a person who is a qualifying person. The Council will only allocate housing accommodation to a person that does not come within any part of section 7 of this policy.

### **Qualified Persons**

- 8.2 Only an applicant with a local connection is considered a qualifying person. Local connection is defined below. There are some exemptions to this which follow the local connection criteria.

### **Local Connection**

- 8.3 Applicants or a permanent member of their household will need to meet, and provide evidence of the fact they meet, at least one of the following criteria in order to be defined as having a local connection to the Borough of Tamworth:

#### **A) Residence**

Have been resident within the borough of Tamworth continuously for the last 2 years immediately preceding the date of application and for the duration of their application

For the purposes of residency we will only usually consider settled forms of accommodation. Secure accommodation would generally be considered as secure and medium to long term accommodation and generally where there is a legal right to occupy the accommodation. For example, owning the accommodation, renting the accommodation or where they have resided with family with the intention of it being a long term arrangement.

#### **B) Employment**

Have permanent employment or be self-employed within the Borough of Tamworth for a continuous period of at least 12 months immediately preceding the date of application and for the duration of the application (although any employment need not necessarily be/have been with same employer).

This employment must be for more than 16 hours per week. Where working hours fluctuate i.e. casual or zero hour's contract, an average will be taken over 12 months.

#### **C) Close family with an additional health/welfare need**

Local connection can be established through family where there has been frequent contact and dependency and:

The applicant has a close relative\* who has been living in the borough of Tamworth continuously for the last 5 years

**and**

Where the relative has health or care needs which require the support of the household that is applying to move to be in the area or where a family member needs to move to the borough of Tamworth to be closer to family who live there from whom they require care/support.

Applicants will need to provide medical evidence to support this criteria along with evidence to show frequent contact or dependency.

\*Close relative for this purpose is defined as parents, children, siblings, grandparents or grandchildren including step relatives.

#### **8.4 Local connection exemptions**

The only exemptions to satisfying this criteria are as follows:

- The applicants are relevant persons for the purpose of the Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012-

##### **Armed Forces**

8.5 The Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012 stipulate that a person would satisfy local connection if a person;

- A) Is serving in the regular forces or who has served in the regular forces within five years of the date of their application for an allocation of housing under Part 6 of the 1996 Act;
  - B) Has recently ceased, or will cease to be entitled, to reside in accommodation provided by the Ministry of Defence following the death of that person's spouse or civil partner where—
    - i. the spouse or civil partner has served in the regular forces; and
    - ii. their death was attributable (wholly or partly) to that service; or
  - C) Is serving or has served in the reserve forces and who is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to that service.
- In accordance with the statutory guidance for 'Improving access to social housing for members of the Armed Forces 2020 (MHCLG) the authority will also exempt from any local connection requirements divorced or separated spouses or civil partners of Service personnel who need to move out of accommodation provided by the Ministry of Defence<sup>7</sup>.

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<sup>7</sup> Improving access to social housing for members of the Armed Forces- Statutory Guidance 2020 (MHCLG)

- The applicants satisfy the right to move criteria below and therefore do not need to have a local connection to the borough of Tamworth.

### **Right to Move**

- 8.6 The Right to Move qualification regulations 2015<sup>8</sup> states that Local Connection criteria must not be applied to existing social tenants who seek to move from another local authority district in England and who have a need to move for work related reasons to avoid hardship.
- 8.7 To qualify the applicant must be a social housing tenant living in England
- 8.8 Applicants wishing to join the Housing Register due to work related reasons to avoid hardship are able to do so provided that they can evidence these requirements.
- 8.9 Applications accepted under 'Right to Move' will be awarded Band 1 priority.
- 8.10 The Council must be satisfied that the tenant needs, rather than wishes, to move for work related reasons and if they were unable to do so this would result in hardship.
- 8.11 In determining whether the tenant needs to move the Council will consider the following factors:
- The distance and/or time taken to travel between work and home
  - The availability and affordability of transport, taking into account the tenant's level of earnings
  - The nature of the work and whether similar opportunities are available closer to home
  - Other personal factors, such as medical conditions and child care, which would be affected if the tenant could not move
  - The length of the work contract
  - Whether failure to move would result in the loss of an opportunity to improve their employment circumstances or prospects.
- 8.12 The qualification regulations only apply if work is not short-term or marginal in nature, nor ancillary to work in another district. Voluntary work is also excluded.

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<sup>8</sup> The Allocation of Housing ( Qualification Criteria for Right to Move) England Regulations 2015 and Right to Move: Statutory guidance on social housing allocations for local housing authorities in England 2015 (DCLG)

- The applicant is homeless and the Council has accepted a full duty to them under the Housing Act 1996 (as amended) S193(2)
- Applicants who are homeless and who are owed a duty requiring the Council to help them secure accommodation under S189B of the Homeless Reduction Act 2017, but only for as long as that duty is owed to the applicant
- Applicants who are threatened with homelessness and who are owed a duty requiring the Council to take reasonable steps to help applicants ensure that their accommodation does not cease to be available for their occupation under S195 of the Homelessness Reduction Act 2017 but only for as long as that duty is owed to the applicant
- The applicant does not have a local connection to any other Council
- The applicant has been unable to establish normal residency due to rough sleeping.
- Where the applicants are travellers or gypsy's and this has prevented local connection through the normal residency criteria
- There are significant and special circumstances with overriding reasons requiring the move into Tamworth for reasons of safety; when an applicant is fleeing domestic abuse from another area, is on a witness protection programme or where by not moving to Tamworth would be detrimental to their wellbeing or cause significant hardship. This would be assessed on a case by case basis and would require approval from a Senior Officer within the Housing Solutions Service.
- Local connection through special reasons may also be granted where applicants have been staying temporarily with friends or family, or otherwise referred to as 'sofa surfers' and where there are supplementary links to the area for example recent previous residency, or where they have only been residing with them temporarily due to the threat of homelessness or if they require to be in Tamworth for a medical or welfare need.

An applicant will retain their local connection where they have left the area due to:

- Being in Hospital
- Having to move out of the area for care
- Being accommodated in supported accommodation outside the district
- Being placed in temporary accommodation outside of the borough by the Council

### **Disqualified persons**

- 8.13 There are some circumstances where people are disqualified from joining the housing register as the Council will only allocate social housing to those people that it has defined as "qualifying persons" under Section 160ZA(6)(a) of the Act. These criteria are set out in the rest of this section.

- 8.14 Disqualified applicants can ask for a review of the decision – see section 13 of this policy.
- 8.15 Where applicants are disqualified from the housing register they will still be able to access advice and assistance on other housing options, such as privately renting, mutually exchanging and/or access to shared ownership from the Housing Solutions team of the Council.
- 8.16 Where an applicant has been accepted onto the housing register but subsequently becomes disqualified for an allocation (for example, for reasons of behaviour) or is discovered to have been disqualified when the application was made, the applicant will be notified in writing that the Council intends to cancel their application and of the reasons for this. The applicant has a right to ask for review of this decision (see section 13). If the Council has not received a request for a review within 21 days of the date of the notification letter, the application will be cancelled.

### **Disqualification criteria**

#### **A. *Unacceptable behaviour or former tenant debt***

Where an applicant or a member of their household who would be rehoused with them has been guilty of ‘unacceptable behaviour’ in the conduct of their current or a previous tenancy, they will not be qualified to join the register. An exception will be made where someone is homeless and the council has accepted a main section 193 housing duty.

Unacceptable behaviour can include, but is not limited to:

- i. Owing rent or other housing-related debt from a current or former tenancy with a registered housing provider or a private landlord of 8 weeks or equivalent of their rent
- ii. Using premises for illegal or immoral purpose
- iii. Causing nuisance and annoyance to neighbours or visitors
- iv. Convictions for criminal offences in or near to the applicant's home where the applicant still poses a threat to neighbours or the community
- v. Convictions for a criminal offence relating to abusive behaviour towards a Tamworth Borough Council employee, partner or contractor
- vi. Convictions for housing or welfare benefits-related fraud
- vii. Being violent towards a partner or members of the family or anyone in the neighbourhood and been convicted of an offence in relation to this or where it has met the threshold for an injunction or court order for example a non-molestation order.
- viii. Obtaining a tenancy by deception, for example by giving false information

ix. The applicant is subject to a civil injunction due to unreasonable behaviour

In determining whether an applicant is disqualified due to unacceptable behaviour, the Council will consider:

- Has the applicant or a member of the applicant's household been guilty of unacceptable behaviour?
- Was the unacceptable behaviour serious enough to have entitled a landlord to obtain an order for possession, whether or not such an order was sought?
- At the time of the application, is the applicant still unsuitable to be a tenant by reason of that behaviour, or the behaviour of a member of his/her household?

Unacceptable behaviour will initially result in disqualification for 12 months, which may be extended unless the applicant has rectified the wrong doing. To be admitted to the register the disqualification must have been rectified, for example if an applicant pays off or significantly reduces their current or former rent arrears. If an applicant's behaviour has been such that they have received a criminal conviction resulting in a then a fixed term disqualification may apply until any conviction has been spent. For convictions which may never be spent then the Council would consider admitting them onto the housing register once they have served any sentence imposed and would any licence conditions they are under.

An applicant can re-apply to the Housing Register at any time for their situation to be reviewed if they feel they are entitled to now qualify.

The Council will not disqualify someone from the housing register once the conviction has been spent.

Where the disqualification is as a result of rent arrears and the applicant has demonstrated that they have a payment plan in place, that they have been making regular payments for a period of 3 months, which are of a reasonable and proportionate amount to the debt owed amount, then the Council will allow them to join the register with a reduced preference. The amount required to be paid on a payment plan would be subject to an affordability assessment and based on the applicants income and expenditure.

Where applicants are disqualified they would be notified of the decision in writing and offered the chance of appeal.

## **B. Property Ownership**

Under s160ZA Housing Act 1996 the Council is only allowed to allocate to an eligible and qualifying person. The Code of Guidance recommends that local authorities should avoid allocating social housing to people who already own their own homes.

The Council will therefore only allocate social housing a person who owns their own home in exceptional circumstances.

Applicants who own their own homes will be provided advice and guidance on other housing options.

Applicants will not qualify to join (or remain on the register) if they own a property either in the UK or abroad (either freehold, leasehold, under mortgage or shared ownership), unless they can demonstrate that:-

- They are in housing need and/or it is unreasonable for them to continue to occupy the accommodation

**And**

- They cannot liquidate or sell the property which would enable the owner occupier to purchase or rent an alternative property suitable to meet their needs.

Examples may include:

- They are homeless or likely to become homeless within 3 months of their request due to the repossession of their current home and if they receive any equity this will not be enough to secure alternative accommodation
- A joint owner who has left the property, or is leaving the property in order to escape domestic abuse and the perpetrator of the abuse is the other joint owner and the property cannot be sold.
- There has been a breakdown in a relationship between joint owners and one has requested housing, the property has been sold, and they have insufficient resources secure alternative accommodation.
- A homeowner who has been accepted as statutory homeless.
- Where a closure order or prohibition notice due to serious disrepair has been served on the home

All alternative housing options must also have been exhausted before homeowners can join the housing register. In case of needing to move due to medical reasons then funding any necessary adaptations by any other means will also be considered.

Applicants who own property and who rent that property out will be expected to take all necessary legal steps to regain possession of it. This will apply to properties that are owned outright or still mortgaged and to properties where an applicant's family

may currently be residing. Where a homeowner has tried and exhausted all legal routes to regain possession of the property but has been unable to then the Council would allow them to join the register subject to approval by a Director.

Those who are disqualified from the register because they are homeowners can still access appropriate advice regarding their housing options (as per Section 3 above) and assistance in resolving their housing needs.

Where applicants are able to register, before any offer of accommodation is made, proof will be required that the property has been sold or proof of the fact that a sale has been agreed. Only in exceptional circumstances and where there are significant material overriding reasons would a property be allocated where the applicant still retains ownership of a property and this would require approval from a Director.

### **C. Financial resources**

The Council is permitted to take into account the financial resources available to an applicant to meet their own housing need. If a household's income exceeds the following they will not qualify to join the register.

- i. Single person households with a household net income of £30,000 or more per year
- ii. Family households (this includes couples) with a household net income of £60,000 or more per year.

A family household is defined as a household that is not a single person and includes couples. A household income will take into account the income of all household members other than the income of non-dependent children. Income will also include all sources of income for the household, including (but not limited to) benefits, grants and income from employment.

Disability Living Allowance or personal independence payments or any other replacement benefit for the above will not be included for the purposes of this calculation. Payments awarded as a result of injury sustained whilst serving in the armed forces shall also not be included in any income calculation. Payments for compensation of injury would also not be included.

These income ranges will be reviewed annually in line with Central Government Directive and legislation.

The procedure for calculating household income will be attached as an appendix to this policy.

### **D. Savings/Assets/Capital**

Applicants with capital/savings/assets/investments in excess of £16,000 will not qualify to join the housing register as they will be regarded as having sufficient resource to source alternative suitable accommodation. This amount is in line with the DWP criteria for eligibility for Housing Benefit.

Where these savings are derived from a payment due to injury or disability for members of the armed forces who have recently been discharged, unless there is an award towards meeting their housing costs they will not be included in this calculation.

### ***E. People with no housing need***

Applicants will not qualify for and be registered/allowed to remain on the Council's housing register if the Council is satisfied, that following an assessment, they are suitably and adequately housed, that is, they have no recognised housing need under the Council's Housing Allocation Scheme or fall into a reasonable preference category.

The demand for social housing in the area exceeds supply and therefore social housing has to be awarded to those who are in the most housing need. The Council wants to manage demand and manage applicant's expectations accordingly.

Where such applicants are disqualified from joining the housing register they can still discuss other housing options available to them with the Housing Solutions Service.

For current social housing tenants who are adequately housed but still wish to move they may still be eligible for a mutual exchange.

### ***F. Refused 3 tenancy offers within 12 months***

Where applicants have refused 3 suitable tenancy offers within a 12 month period they will be disqualified from the housing register for a period of 12 months.

The 12 months will commence on the date of the refusal of the third offer.

The only exception to this will be where applicants have had a significant change in their circumstances following the making of the third offer and this will be at the discretion of the housing solutions manager.

## **Assessing Reasonable Preference without fulfilling the Qualification Criteria**

8.17 The Council's Allocations Scheme must give reasonable preference to applicants who fall into the categories set out in section 3 above (Legal Framework) and more specifically, sections 3.3 and 3.4. The Council cannot automatically reject an applicant who does not qualify under local connection criteria but who may still fall into a reasonable preference group for housing need.

8.18 Applications will be considered using the reasonable preference criteria set out in this Scheme. Successful applications where there is a reasonable preference, but where there is no local connection to the borough of Tamworth will be assessed at a reduced priority and be demoted to the band lower than the one the applicant would usually be awarded if they had a local connection.

8.19 If applicants fall into a reasonable preference category they will only usually be disqualified in exceptional circumstances and where the applicant has committed serious anti-social behaviour or has high rent arrears<sup>9</sup>.

### **How to apply**

8.20 An application to join the housing register must be made using a Council housing application form. These can be downloaded online at [www.tamworth.gov.uk](http://www.tamworth.gov.uk) or alternatively are available from Marmion House, Lichfield Street, Tamworth, Staffordshire B79 7BZ. If a form cannot be downloaded or collected from the Council offices then one can be requested to be posted out.

8.21 Applications are subject to verification checks and will be assessed:

- At the point of initial application
- Following any change of circumstance notified to the Council by the applicant
- Following routine validation audits
- Following an annual review of the application
- At the point when an offer of accommodation is made
- At the point of letting.

8.22 Applications must be accompanied by any supporting information and evidence as well as relevant proof of identification. The Council will return all forms where such documentation has not been provided. Applicants will usually be contacted and given the opportunity to bring the information in first, before it is returned.

8.23 The Council will contact any current and/or former landlords in a five year timeframe to check the applicant's eligibility pursuant to the Policy the following checks. This applies equally to private or social landlords.

8.24 Where applicants are privately renting and any reference request to their current landlord may result in them being served with a notice to leave that tenancy, applicants will be required to provide proof of their rent account or proof of rent payments for the previous 6 months, or since the start of the tenancy if it commenced within the last 6 months. A tenancy reference will be mandatory at the time an applicant is offered a property. Where applicants will be unable to provide this any offer may be withdrawn.

8.25 Advice and assistance regarding any aspect of the housing application process is available free of charge from the Housing Solutions team, Tamworth Borough Council, Marmion House, Lichfield Street, Tamworth, Staffordshire, B79 7BZ, or by phoning 01827 709709 or by emailing [housingsolutions@tamworth.gov.uk](mailto:housingsolutions@tamworth.gov.uk).

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<sup>9</sup> Allocation of accommodation: guidance for local housing authorities in England- 2012 DCLG

## **9 Reduced Preference**

### **9.1 Reasonable preference without fulfilling local connection**

Where applicants fall under a reasonable preference category but would not ordinarily meet the local connection requirements their band will be reduced to a band lower than they would be awarded if they had a local connection.

### **9.2 Rent arrears**

Where applicants owe housing debts to their current or a former landlord of £250.00 or over, or 4 weeks rebated rent<sup>10</sup> their band will be reduced by one band below that indicated by their housing need.

So, for example, applicants whose housing need would place them into Band 2 would be placed into Band 3.

Where the applicant owes arrears of rent that are lower than either of these two amounts, then their application will not be demoted but they will be expected to clear the arrears before being signed up for any new tenancy.

The Council reserves the right not to apply reduced preference for rent arrears where these are directly attributable to bedroom subsidy sanctions, and there is a sound business case to do so. The Council's Allocations Panel must approve any such decision.

The Council will not apply a reduced preference when an applicant has rent arrears but has been accepted as homeless and where they are entitled to the S193 housing duty.

For transfer applicants the Council will expect a clear rent account before the tenant is allowed to move and will be required to have a property inspection to ensure no breaches of the tenancy agreement.

### **9.3 Deliberate Worsening of Circumstances**

Where applicants have been deemed to have deliberately worsened their circumstances their banding will be reduced to one band lower than they would usually have been awarded. Examples of this could include but are not limited to:

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<sup>10</sup> 'Rebated rent' means the net amount that the tenant is expected to pay over and above any housing benefit or housing allowance.

- i. Applicants who give up a home that they own, rent, or have rights to but choose to leave or dispose of it without good reason in the 5 year period immediately preceding the making of their application. This includes 'gifting' a home to friends and/or relatives, both within and outside the UK, where they could have reasonably been expected to reside, or to sell it.
  - ii. Applicants who have given up a social housing tenancy in the five year period immediately preceding the date of their application and this was , not due to violence / threats of violence / harassment / anti-social behaviour / domestic abuse / hate crime, or any other similar danger to life and welfare. This will require clear evidence that the issues had arisen.
  - iii. Applicants who deliberately overcrowd accommodation other than where it is necessary to prevent homelessness.
  - iv. Applicants who deliberately move to a home which was clearly unaffordable at the point they move into it.
  - v. Applicants who deliberately move into accommodation which will be overcrowded other than to prevent their homelessness and prevent the homelessness of their family.
  - vi. Applicants who leave suitable accommodation without making suitable provision unless there was good reason to leave
  - vii. Applicants who deliberately deprive themselves of capital, equity or income following the sale of a property belonging to them whether jointly or in their sole name in order to qualify or gain priority for housing. Deliberate deprivation includes gifting money to relatives and friends and payments to third parties.
- 9.4 Where an applicant applies to the housing register and is accepted into a band, but subsequently makes a homeless application and is deemed to be intentionally homeless they will be demoted to a band lower as appropriate and /or applicable. For example an applicant may have been awarded medical banding when applying to the housing register but is then found to be intentionally homeless. Whilst they would still be awarded the medical banding, a reduced preference would then apply and they would be placed in one band lower than they were in.

## **10 Bedroom Requirements, Property eligibility and entitlement**

## 10.1 Summary of which households can bid for certain properties

Property Type	Household Criteria
Bedsit / studio flat	Single person
One bed flat	Single person / couple
One bed Bungalow	<p>Single person or couple with mobility disabilities and a need for this type of accommodation (as assessed by an Occupational Therapist).</p> <p>Priority is given where one person is 60 years or above. In the absence of 60+ year olds, those under this age will be considered.</p>
High rise – one bed flats	Single persons or couples - at least one person must be 50 years or above.
High rise – two bed flats	<p>Couples where at least one person is 50 years or above who have either:</p> <ul style="list-style-type: none"> <li>• An assessed need for separate bedrooms or</li> <li>• Require an overnight carer.</li> </ul>
Two bed bungalow	<p>Single persons or couples who either have :</p> <ul style="list-style-type: none"> <li>• An assessed need for separate bedrooms or</li> <li>• Require an overnight carer.</li> </ul> <p>Priority is given where one person is 60 years or above. In the absence of 60+ year olds, those under the age will be considered.</p>
Sheltered Housing	Single persons or couples - at least one person must be 55 years or above and they must have an assessed need for sheltered housing.
<p>Two bed flats (not high rise), maisonettes and houses</p> <p>Three bed flats, maisonettes and houses</p> <p>Four bed houses</p> <p>Five bed houses</p> <p>Seven bed houses</p>	Households, whose bedroom requirements are as indicated in section 10.2.

## Bedroom Requirements

- 10.2 The Council will make best use of its stock. Accommodation will normally be offered according to applicants' needs and the criteria below:

One bedroom is allowed for:

- Every adult couple
  - Any other person aged 16 or over
  - Two children of the same sex under the age of 16
  - Two children under the age of 10 regardless of their sex
  - Any other child
  - A carer (who is not part of your household) if you or your partner need overnight care
  - Any other person who cannot share a bedroom because of a severe disability or medical condition or where there is a need for medical equipment for example dialysis equipment (see section 10.6)
- 10.3 A household containing a pregnant woman will be eligible for a bedroom for the unborn child at 20 weeks gestation if there is no other bedroom that the child could be expected to share. Since this would be deemed a 'spare room' prior to the child's birth, the financial implications of accepting the offer of a property with a room for the unborn child will be explained to the applicant prior to their acceptance of the offer. They will be entitled to refuse such an offer.
- 10.4 These household criteria largely reflect the changes made by Government to Welfare Benefits. This approach seeks to ensure that applicants are not allocated accommodation that has a 'spare' bedroom for benefit purposes and which would be unaffordable and unsustainable as a result.

### Carers

- 10.5 Applicants claiming bedrooms for carers will need to provide evidence sufficient to satisfy the Council of the caring relationship, which must include supporting evidence from Adult Social Care evidencing the need for overnight care. Even where the Council recognises a need for an overnight carer for the purposes of a housing need, the applicant may still need to satisfy other authorities of this, such as for Housing Benefit / Universal Credit payments.

### People with disabilities who cannot share

- 10.6 Applicants will need to provide evidence sufficient to satisfy the Council of the need for separate bedrooms, which must include supporting evidence from senior medical professionals. Awarding an additional bedroom will be assessed on a case by case basis and will involve considering not only the nature and severity of the disability but also the nature and frequency of care

required during the night, and the extent and regularity of the disturbance to the sleep of the other person who would normally be required to share the bedroom. Even where the Council recognises a need for an additional bedroom for the purposes of a housing need, the applicant may still need to satisfy other authorities of this, such as for Housing Benefit / Universal Credit payments.

#### Fostering

- 10.7 Approved foster carers and adopters who need to move to a larger home in order to accommodate a looked after child or a child who was previously looked after by a local authority can apply to the Council to bid for homes that provide an additional bed space. This provision also includes special guardians, holders of a residence order and family and friends carers who are not foster carers but who plan to take on the care of a child. Approval for a 'size over-ride' will be considered by the Allocations Panel subject to supporting information being provided.

#### Under-occupying homes

- 10.8 The Council reserves the right to allow for the under-occupation of its homes if this is the best use of housing stock which will be determined by demand for that particular stock, whether it is an adapted property or the individual personal need of the applicant. Any such "over-ride" will be approved by a director and will be subject to an affordability check on the part of the applicant.
- 10.9 Where under-occupation of a home would result in a reduction in Housing Benefit because there is a spare room, the implications will be discussed with the applicant prior to acceptance of an offer, to ensure that the applicant can afford to pay the rent and that the tenancy will be sustainable.

#### Over-occupying homes

- 10.10 Where a household requires a larger property, the type of which does not become available frequently, they may apply to the Council to be allowed to bid for properties that have one bedroom less than required under these eligibility criteria, provided they would not be statutorily overcrowded.
- 10.11 Approval for a 'size over-ride' will be required to be authorised by a manager in the Housing Solutions service.
- 10.12 A policy over ride would not apply for bedroom entitlement where it has been awarded based on medical need and following receipt of medical evidence.

## **Property Eligibility**

### **Sheltered Housing**

- 10.13 The Council has a number of sheltered schemes across the town and allocations are in accordance with this Scheme. The applicant (or at least one of a couple) must be 55 years or above.
- 10.14 Prospective tenants will be required to have a needs and risk assessment before an offer is made to ensure that the property and support available will meet their needs. This assessment will usually take place at the scheme if this is acceptable to the applicant.
- 10.15 Property advertisements for sheltered schemes include information on who can bid, and the charges payable.

### **Properties where bidding is limited to certain households or bands**

- 10.16 Some other properties are designed and intended for households with specific characteristics. These include properties that are usually allocated to older people, or to disabled people.
- 10.17 Where properties are so designated, the property advertisement will state which types, or bands, of applicants are eligible to bid and how their relative priority will be determined.
- 10.18 The property advertisement will also state where a Local Lettings Plan applies, and who is entitled to bid for the property.
- 10.19 Some properties, e.g., some that are in high demand, will only be open to bids from applicants in higher bandings, as determined by the Annual Lettings Plan. This will also be stated in the property advertisement.

## **11 Banding**

### **Summary of Banding**

#### **11.1 Band 1+**

Applicants in the following circumstances will be placed in this highest band:

- Applicants assessed as having exceptional additional housing need namely where a main homeless duty is owed to the applicant and the applicant has one further criteria in Band 1

### 11.1 Band 1+

Applicants in the following circumstances will be placed in this highest band:

- Applicants who have an urgent housing need (as defined in Band 1 or are owed a reasonable preference) and
  - i. Are serving or formerly served in the regular forces and suffer from a serious injury, illness or disability which is attributable (wholly or partly) to the person's service
  - ii. Have recently ceased, or will cease to be entitled, to reside in accommodation provided by the Ministry of Defence following the death of their spouse or civil partner who served in the regular forces and whose death was attributable (wholly or partly) to that service, or
  - iii. Who are serving or have served in the reserve forces and are suffering from a serious injury, illness or disability that is attributable (wholly or partly) to the person's service.
  - iv. Have an urgent housing need to move and are a former member of the regular armed forces. Subject to the SI 2012 no. 2989

### 11.2 Band 1

Applicants in the following circumstance will be awarded Band 1, these circumstance encompass reasonable preference groups:

- Applicants whose current home is within the borough of Tamworth and which is due to be demolished, or is subject to a Demolition Order.
- Applicants assessed as statutorily homeless and owed a main duty in the borough of Tamworth.
- The applicant's current home is subject to a Prohibition Order served by Tamworth Borough Council covering a main part of the dwelling, or is otherwise unsatisfactory or unsanitary and the defects to the property cannot be readily remedied following an assessment by the private sector housing team.
- Applicants who are unable to continue to occupy their current accommodation due to high medical need or disability

## 11.2 Band 1

Applicants in the following circumstance will be awarded Band 1, these circumstance encompass reasonable preference groups:

- Applicants with a high need for alternative accommodation on the grounds of significant social welfare. This includes applicants with a need to move to a particular locality where significant hardship would be caused if they did not move, and this banding is also awarded to those with a 'right to move' as stipulated
- Applicants who are deemed by the Private Sector Housing team to be statutorily overcrowded, or who are overcrowded by two or more bedrooms according to this Policy
- Applicants who have a social housing tenancy and are under-occupying social rented accommodation by two or more bedrooms
- Applicants awarded Incentive to Move that are presently tenants of Tamworth Borough Council, and are prepared to move to a flat or bungalow, thereby making their current home available to an applicant that needs a house (not subject to cumulative preference)
- Applicants that are presently living in supported housing and are required to move on. In accordance with the move on protocol, where specific Service Level Agreements exists or there are other specific arrangements, the supported accommodation provider will be required to confirm that the applicant has completed a support programme and is ready to move on
- Applicants who are a looked after child and leaving care.
- Where a former Tamworth Borough Council tenant has negotiated and agreed tenancy surrender
- Applicants who are Tamworth Borough council tenants and have an urgent need to move and to make best use of stock for reasons where banding has not been otherwise provided for in the policy.
- Applicants who have a reduced preference from Band 1+
- Applicants who were assessed as threatened with homelessness but through successful mediation have remained within the home for a minimum period of 6 months

### **11.3 Band 2**

Applicants in the following circumstances will be placed in Band 2:

- Applicants with a medium medical need who have been assessed as requiring suitable alternative accommodation.
- Homeless applicants owed a duty requiring the Council to help them secure accommodation under S189B Homeless Reduction Act 2017 (for as long as that duty is owed to the applicant) (not subject to cumulative preference)
- Applicants with a medium need for alternative accommodation on the grounds of serious social/welfare.
- Applicants who are overcrowded by one bedroom according to the bedroom requirement in this Policy.
- Applicants who have a social housing tenancy and are under occupying social rented housing by one bedroom.
- Applicants who are leaving or have recently left Armed Forces accommodation and who have not been dishonourably discharged. A Discharge Notice will be required
- Applicants who have been verified as rough sleeping who are determined not to be owed the main s193 duty.
- Have a reduced preference from Band 1.

### **11.4 Band 3**

Applicants in the following circumstances will be placed in Band 3:

- Applicants who have been assessed through the homeless legislation but where a main duty is not owed due to non-priority, intentionality or refusing a suitable offer of accommodation.

### **11.4 Band 3**

Applicants in the following circumstances will be placed in Band 3:

- Applicants who are threatened with homelessness and who are owed a duty requiring the Council to take reasonable steps to help them ensure that their accommodation does not cease to be available for their occupation owed under S195 of the Homelessness Reduction Act 2017 (for as long as that duty is owed to them) (not subject to cumulative preference)
- Applicants with a low medical need or a disability of such a nature that requires them to move.
- Applicants who have a low housing need on welfare grounds.
- Applicants who are single and aged 35 or over who are living in shared accommodation that includes sharing facilities such as the bathroom or kitchen with other people in unrelated households
- Joint applicants who are a couple and living in shared accommodation that includes sharing facilities such as the bathroom or kitchen with other people in unrelated households
- Have a reduced preference from Band 2.

### **11.5 Band 4**

Applicants in the following circumstances will be placed in Band 4:

- Applicants that are owed an accommodation duty under section 193C (4) namely those applicants who have had their homeless duty discharged for failing to co-operate.
- Applicants that have a reduced preference from Band 3.
- Applicants that were referred into Supported housing temporarily but not yet ready for move-on in accordance with the move on protocol

- 11.6** There are 5 bands, with Band 1+ being the highest priority. Each of the bands is categorised according to need
- 11.7** Relative priority amongst bidders for any particular home is determined:
- Firstly by the Band, and
  - Secondly by the date that the application joined the Band, so that those that have been in any Band for longer periods of time are given preference over those that joined the Band at a later date
- 11.8** Where an applicant's circumstances change and an alternative banding is awarded, the date the applicant is accepted into the Band is used to prioritise their application compared to bidders in the same Band.

### **Cumulative Preference**

- 11.9** Applicant(s) meeting two or more of the categories described in Band 2 will be promoted to Band 1. This is to recognise their exceptional and urgent housing need.
- 11.10** For cumulative preference from Band 1 to Band 1+ this would only apply to those awarded the full s193 housing duty and those from the armed forces who have been injured as a result of their service, or their family and an unconnected characteristic in Band 1.
- 11.11** Some categories will be exempt from cumulative preference where they may be of similar reasoning to prevent any duplication of banding.
- 11.12** Banding categories exempt from cumulative preference are detailed within the banding summary

## **Banding Priorities Explained**

### **Medical grounds for rehousing**

- 11.13** The Council has three levels of medical priority that determine which band an application will be placed in:
- Band 1 = High Medical Award  
Band 2 = Medium Medical Award  
Band 3 = Low Medical Award
- 11.14** The assessment process requires the applicant to provide evidence from relevant care or medical professionals that clearly links the health concern to the current accommodation

#### **11.14.1 High medical need**

Where current housing conditions are having a major adverse effect on the medical condition of either the applicant or a member of their household, the application will be placed into Band 1. This will generally require evidence from a senior health practitioner or a consultant and be a tailored assessment clearly linking the medical condition with the current accommodation and making a recommendation as to which type of property would alleviate the condition.

Examples might include:

- A wheelchair user occupies a home where facilities are upstairs and therefore inaccessible and a bungalow is recommended
  - An applicant is due to be discharged from hospital and cannot be discharged into their current accommodation because its design is totally unsuitable.
  - A referral has been received from a consultant or other similar health care professional stating that their current housing is having a severe effect on an applicant's (or member of their household's) mental well being
  - An applicant or a member of their household who needs to move to suitable adapted accommodation because of their serious injury, medical condition or disability. This would be assessed by an Occupational Therapist.
- An award will be subject to approval by a senior officer in the housing solutions team.

#### **11.14.2 Medium medical need**

Applicants who have been assessed as requiring suitable alternative accommodation because their medical condition and/ or disability is having a detrimental effect on their ability to live independently at home would be placed into Band 2. This would require evidence from medical practitioners who must also recommend suitable property types or the required characteristics for a property based on their knowledge of the applicant's medical needs.

Examples might include:

- An applicant who requires a different type of accommodation or a different layout of accommodation including but not limited to someone who needs level access accommodation.

#### **11.14.3 Low medical need**

Applicants whose move to suitable alternative accommodation would improve their health will be placed in Band 3. This is typically evidenced by a letter from the applicant's GP or community health services. It must also recommend suitable property types and/or the required characteristics for a property based on their knowledge of the applicant's medical needs.

Examples might include:

Someone with a degenerative condition whose needs are likely to occur in the future, typically within 12 months' time.

### **Social, welfare and hardship grounds**

**11.15** The Council has three levels of social, welfare and hardship priority that determine which band an application will be placed in:

- Band 1 – High Social, Welfare and Hardship Grounds
- Band 2 – Medium Social, Welfare and Hardship Grounds
- Band 3 – Low Social, Welfare and Hardship Grounds

**11.16** The Council seeks to sustain tenancies and will engage in multi-agency discussions to determine the best way to resolve issues. Social, hardship and welfare is an umbrella term that will include any discretionary issues other than medical.

#### **11.16.1 High Social, Welfare and Hardship need**

Those applicants needing to move urgently on social, hardship and/or welfare grounds will be placed in Band 1. Priority for this level will only be awarded if the current situation is so significant that it will have a serious impact on the wellbeing of the applicant or a member of their household.

This will require supporting evidence from a third party such as a statutory agency (e.g. safeguarding, police, MARAC) and/or senior professional who are involved in the case.

Examples might include:

- Child/ren separated from parents (where they previously lived together) because the child cannot currently occupy the home of the parent, which prevents them living as a family unit.
- Applicants with a high degree of vulnerability whose housing situation is having a detrimental effect on their life
- Applicants who need to move due to or to recover from the effects of domestic abuse<sup>11</sup>, violence, emotional or sexual abuse
- People who need to move because of racial or homophobic abuse
- An applicant needing to move to be closer to a relative where either is very vulnerable, there is no alternative solution and where not to do so would cause significant hardship or either or both
- An applicant who is under witness protection, through the national witness mobility service and requires a move to another area.
- Applicants who have been accepted as having a Right to Move (in accordance with section 6.

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<sup>11</sup> As per the stipulations in the Domestic Abuse Act

- An applicant needing to move to take up employment where not doing so would cause financial hardship.
- Cases in relation to a child in need where they meet the criteria stipulated in the section below.

The Council will carry out a home visit if this is deemed necessary in order to verify the details provided by the applicant.

Any award will be subject to approval by a senior officer within the housing solutions team.

### ***Child / Children in Need in an existing household***

For this purpose of this part in accordance with the Children Act 1989 a child shall be taken to be in need if :

- ‘(a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by a local authority under this Part;*
- (b) his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or*
- (c) he is disabled.’*

and “family”, in relation to such a child, includes any person who has parental responsibility for the child and any other person with whom he has been living.

A high social need banding will be applied to the application for rehousing, placing the application into Band 1, where:

- The child has been assessed by children’s Social Services via a statutory assessment procedure, and
- Social Services have clearly indicated what aspects of the child’s development are being hindered by their current housing circumstances, and
- The Council’s safeguarding and designated officers within housing are satisfied that the evidence supports an urgent need to move

For the purposes of this assessment the household to be considered is that which has care and control of the child for the majority of the time.

### **11.16.2 Medium Social, Welfare and Hardship need**

Applicants who have a medium housing need on welfare grounds will be placed in Band 2; this would require third party supporting evidence from (local support team, social workers etc.).

Examples might include:

- Applicants who need to move as part of an agreed support plan to re-integrate them into the community.
- Lower level and regular police involvement

### **11.16.3 Low Social, Welfare and Hardship Grounds**

Applicants who have a low housing need on welfare grounds will be placed in Band 3. This would require third party evidence from support workers or equivalent.

Examples might include:

- Applicants with limited access arrangement to their children for example living in a property where children cannot visit.
- Applicants who are privately renting and who are struggling financially. This will be assessed on a case by case basis and subject to supporting evidence being provided, for example in the form of an income/expenditure check undertaken through the Citizens Advice Bureau. This will only be awarded where the applicant's needs are not due to lifestyle choices that the applicant has made. The Council reserves the right to refer the application to its debt advice provider for such confirmation.

### **Overcrowding**

11.17 For households that are living in overcrowded accommodation, banding is awarded on a tiered approach, as follows;

- Band 1 is awarded to applicants who are deemed by the Private Sector Housing Team to be statutorily overcrowded, or who are overcrowded by two or more bedrooms according to this Policy
- Band 2 is awarded to applicants who are overcrowded by one bedroom.

11.18 Provided the applicant is not considered to be statutorily overcrowded, overcrowding banding awarded by the Policy will only be awarded where applicants are considered to be in settled accommodation. This is typically secure, and medium to long term housing where there is a right of occupation. This would usually be where they own or rent their home or where they have lived with family for more than 6 months.

11.19 The reasons why the applicant became overcrowded, whether the applicant is able to afford a larger home and whether the space within the dwelling is being used effectively will be taken into account.

11.20 Evidence will be required to support the overcrowding.

- 11.21 Overcrowding assessments will only take into account people who live permanently within the home.
- 11.22 Home visits may be undertaken by the Council to verify the information provided.
- 11.23 The Council retains the right to remove banding on this basis should the overcrowding not be evidenced, or circumstances alter and lead to the overcrowding situation being resolved.

**Move on from Supported Housing**

11.24 The Council works in partnership with a number of agencies that support move-on arrangements from hostels, supporting people funded accommodation and/or other specialist accommodation.

11.25 Applicants moving on from short term accommodation (being of up to 2 years duration) who are capable of independent living (with or without care and support plans) will be placed into Band 1, provided there is evidence from the support provider to confirm that they have been resident for a period of at least 6 months and:

- Their rehousing requirements constitute a high social and/or medical need and an appropriate move on package is in place

Or

- Rehousing will free up a place for a vulnerable person in supported housing

11.26 If applicants fail to bid, then the Council will make bids on their behalf. If applicants are not satisfied with any resulting offer of accommodation then they can request a review of the suitability of the offer.

11.27 Applicants in this category will receive one offer of suitable housing only. If applicants refuse a move on offer of accommodation a reduced preference will be applied.

11.28 In accordance with the Move on protocol adopted by the Council when a resident is ready to live independently and move on from the supported accommodation, the support accommodation provider will need to complete a 'ready to move on' form before banding will be awarded. The move on protocol will be attached as appendix to this policy which contains the form which is required for completion.

11.29 Where the applicant still has support needs the supported accommodation provider must continue to supply these for a period of 6 weeks following the date on which the applicant is re-housed.

**Under- Occupation banding**

- 11.30 For households that are under occupying social housing, banding is awarded on a tiered approach as follows;
- Band 1 is awarded to applicants who are deemed to be under occupying by two or more bedrooms according to the bedroom standard in this Policy
  - Band 2 is awarded to applicants who are deemed to be under occupying by one bedroom according to the bedroom standard in this policy
- 11.31 Banding for under- occupation will only apply to those who are permanently occupying a property as their main and principal home and have a social housing tenancy.
- 11.32 Evidence may be required to support this such as evidence of a social housing tenancy and confirmation from the applicant's social landlord that the applicant is in fact under occupying.
- 11.33 Where the Council is unable to verify these circumstances the Council retains the right to remove banding on this basis.

#### **Incentive to Move scheme**

- 11.34 The incentive to move scheme is a landlords discretionary scheme and subject to budgetary provision
- 11.35 In making best use of stock the Council uses it's Incentive to Move scheme to encourage people to move out of under-occupied properties. The policy enables a payment to be made towards moves from:
- Houses to flats or bungalows
  - Adapted properties to non-adapted properties (where a suitable match has been made for the adapted property)
  - Chain lets – namely where 2 or 3 households give up their properties to move into 1 larger property
- 11.36 Where someone has moved and received an incentive payment, they should expect to stay in that property for 3 years before making an application to transfer home again.
- 11.37 The payment will be recovered from tenants that move within 3 years unless there is an exceptional circumstance which include but are limited to:
- Moving into residential care or long-term hospice
  - Death
  - Moving in with relatives

- 11.38 The terms of the Incentive to Move scheme are subject to review and set out in the Guide which will be attached as appendix to this policy.
- 11.39 Where an applicant has arrears which would ordinarily mean that they would be subject to a reduced preference, the Council reserves the right not to apply the reduced preference as long as any payment awarded for the incentive to move clears the arrears. Where the arrears exceed the amount of the incentive to move payment the reduced preference will still apply.

#### **Negotiated tenancy surrender**

- 11.40 In order for the Council as a landlord or make the best use of resources available, the Council will consider awarding an applicant Band 1 in exchange for the surrender of their tenancy in order limit eviction costs, reduce the period of time properties are left vacant or to prevent rent arrears from occurring.
- 11.41 This is subject to the surrender of the tenancy of the tenancy being done in a planned way and subject to the following provision;
- The applicant is a tenant of Tamworth Borough Council and has been taken into custody or has to go into a mental health or other special facility for an extended period and
  - If any offence they committed did not constitute a breach of their tenancy agreement; and
  - They have or are likely to be sent to prison or a mental health/special facility for more than 13 weeks; and
  - They have conducted their tenancy in a reasonable way; and
  - Their rent is up to date
- 11.42 If the above criterion is met then written confirmation of the surrender will be provided and agreement when they are released they would be awarded Band 1.
- 11.43 Band 1 for tenancy surrender will not be awarded unless the Council has agreed to the Band 1 before they surrendered their tenancy and confirmation was given.
- 11.44 The Band 1 will be awarded at the point the applicant is moving from custody or their mental health facility and upon receipt of a housing application.
- 11.45 Tenancy surrender would be subject to completion of a comprehensive report being completed by an officer and authorised by a manager in the housing solutions service or the allocations panel.
- 11.46 An applicant, who has been granted negotiated surrender priority, may be able to bid for properties within 28 days of their confirmed release date. However, if an applicant is not in a position to sign tenancy agreements and move into the

property once it is ready or the offer of accommodation may be withdrawn and the band award deferred.

- 11.47 An applicant would only be awarded this priority where they would not be disqualified from the housing register due to any other circumstances.

### **Unsanitary or otherwise unsatisfactory housing**

- 11.48 The law states that a council is required to give reasonable preference to those living in unsanitary or otherwise unsatisfactory housing.
- 11.49 We will award Band 1 to applicants living in unsanitary or unsatisfactory housing where there is at least one verified Category 1 hazard <sup>12</sup> that cannot be resolved by the landlord within six months and where the condition of the accommodation has at least an on-going moderate effect on the applicant's health or a member of their household.
- 11.50 We will award Band 1 to applicants living in properties where the landlord has been served with a prohibition order covering a main part of the dwelling, or where the applicant's property has been included within a clearance area or has a lack of facilities ( as specified in 11.46 below). This would include situations where the condition of the property occupied is seriously detrimental to the health of any of the household and the defects in the property cannot be easily remedied following an assessment by the private sector housing team within 6 months
- 11.51 The following will be considered to constitute a lack of facilities namely where an applicant does not have access at all to any of the following facilities:
- Bathroom or kitchen
  - An inside WC
  - Hot or cold water supplies
  - Adequate heating
- 11.52 Where conditions have been deemed to have been caused as a result of an applicant's behaviour or lifestyle banding would not be awarded. This would include where an applicant has refused to allow the issues to be remedied.

### ***Decanting social housing tenants for major repairs***

- 11.53 Where the applicant lives in a Tamworth Borough Council property, the Council will seek to deal with any repairs before it considers moving them. However, where major works are required, the tenant may need to move out in order for these to take place. Any letting made will be on the basis that it is a temporary move (a decant) and the tenant will be able to return to their original home once the works have been completed.

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<sup>12</sup> The Housing Health and Safety Rating System (HHSRS) introduced by the Housing Act 2004 assess 29 categories of housing hazard. Each hazard has a weighting which will help determine whether the property is rated as having category 1 (serious) or category 2 (other)

11.54 These tenants will therefore be offered a licence agreement to occupy the temporary home, as their substantive and principle dwelling will remain their tenancy.

11.55 Decants to allow major repairs to private sector housing will be managed in accordance with the Housing Act 2004 and/or other relevant legislation or statutory instruments. Where issues of disrepair are so significant that an Emergency Prohibition Order is necessitated, the occupier(s) of the dwelling will qualify for Band 1 status from the date of the Order.

**Best use of stock or tenants with an urgent need to move**

11.56 In order to make the best use of stock and if by moving a Council tenant hardship to them will be avoided, the Council can award priority banding Band 1.

11.57 This will only be awarded in exceptional circumstances and where banding has not otherwise been awarded through the Policy for the same circumstance.

11.58 Applicants are not automatically entitled to this banding and cases will be assessed on a case by case basis. Awards of this nature will also have to be supported by evidence and any award of banding will have to be agreed by a manager or review officer in the housing solutions service.

11.59 Cases which may fall in this category could include but are not limited to the following:

- Tenants who are enduring significant financial hardship where they are engaged and working with the tenancy sustainment team and all other options have been considered, and by moving to a smaller property would alleviate hardship but where they are not eligible for an incentive to move payment.
- Where there has already been a succession from one spouse to another but an adult child who has lived in the property all of his life is living in the property

11.60 Applicants awarded the priority will only be entitled to one offer of suitable accommodation.

11.61 Where an applicant is not bidding for all available and suitable properties the Council retains the right for an officer to make proxy bids on their behalf to suitable properties.

11.62 A suitability of accommodation assessment would be completed as part of the band award to ensure the one offer would meet their housing need.

- 11.63 If applicants are offered a suitable property and refuse it, the banding for this priority will be removed. The applicant would be entitled to a review of suitability.

### **Move-On from Care (Staffordshire County Council)**

- 11.64 A care leaver or 'looked after child' (LAC) of Staffordshire County Council will be awarded high priority to move within this Policy if they are ready to move into independent settled housing provided they satisfy certain criteria (see below) and in order to try and prevent homelessness . The care leaver will be awarded Band 1.
- 11.65 A care leaver from Staffordshire County Council will be eligible to join the housing register and be in Band 1 6months prior to their 18<sup>th</sup> Birthday.
- 11.66 Where a suitable property is identified before their 18<sup>th</sup> as they are unable to hold their own tenancy, any tenancy would be held in trust until their 18<sup>th</sup> Birthday.
- 11.67 A supporting letter will be necessary from Staffordshire County Council confirming their status and that they are ready and prepared to move on to independent settled housing, (which may be in the social or private sector), and the care leaver :
- i. possesses the life skills necessary to sustain a tenancy, and
  - ii. has been assessed for a support package, and one is in place.

### **Homeless Households and applying to join the housing register**

- 11.68 Where applicants are homeless and have also applied to join the housing register they will not be disadvantaged.
- 11.69 Where applicants have made a homeless application but are still considered to be entitled to banding under another reasonable preference category they will still be entitled to their normal banding until there has been a change of circumstance which mean the banding is otherwise no longer applicable, for example overcrowding or medical banding associated to a property which they have moved away from.
- 11.70 Due to the Homeless Reduction Act 2017 the Council has framed this policy in order to aid the Council in preventing homelessness and discharging its duty.
- 11.71 Homeless households will be awarding banding on a tiered approach depending what homeless duty may be owed to them and this is covered in further detail below.

### **Accepted statutory homeless households**

- 11.72 *Households to whom the Council has accepted a main housing duty under Part 7 of the Housing Act (as amended) are entitled to one offer of suitable accommodation.*
- 11.73 Applicants are able to bid for advertised properties.
- 11.74 Within the provisions set out in the Localism Act 2011, they may also be considered for an offer of suitable private rented accommodation in line with the Council's Discharge of Duty into the Private Rented Sector Policy (which can be found on the Council's website).
- 11.75 All bids will be monitored by the Council and if an applicant does not bid on suitable properties an officer of the Council will make suitable proxy bids on their behalf. If applicants are not satisfied with any resulting offer of accommodation then they can request a statutory review under s202 of the Housing Act 1996, or appeal to the County Court under S204 of the Housing Act 1996.
- 11.76 If the offer is deemed to be suitable but the applicant refuses the offer, the Council may discharge its duty to the applicant and their priority for housing will be reassessed in line with this Allocations Scheme. Applicants will also have a right to a review of the decision to the discharge of duty under s202 and s204 of the Housing Act 1996.

**Households which are homeless but where the main housing duty is not owed**

- 11.77 Applicants that are owed a duty requiring the Council to help them secure accommodation under s189B of the Homeless Reduction Act 2017 will be placed into Band 2 for as long as that duty is owed to the applicant. This banding is not subject to cumulative preference.
- 11.78 Applicants that are owed a duty requiring the Council to take reasonable steps to help applicants ensure that their accommodation does not cease to be available for their occupation under s195 of the Homelessness Reduction Act 2017 will be placed into Band 3 for as long as that duty is owed to the applicant. This banding is not subject to cumulative preference.
- 11.79 Applicants who have been assessed through the homeless legislation but where a full duty is not owed due to a finding that they are not in priority need, they are intentionally homeless or they have refused a suitable offer of accommodation will be placed into Band 3 until there has been a change in their circumstances or where in the case of intentionality, there been an occurrence which breaks the chain of causation in this respect.
- 11.80 Applicants who are owed an accommodation duty under section 193C (4) of the Housing Act 1996 namely applicants who have had their homeless duty discharged for failing to co-operate.

***Review of 'suitability' of an offer of accommodation for households accepted as statutory homeless***

- 11.81 Applicants that have been accepted as statutorily homeless are entitled to request a statutory review where they consider that an offer of accommodation was not suitable.
- 11.82 Where an applicant has refused a suitable offer of accommodation and the Council discharges its relevant duties they would then be placed in Band 3.
- 11.83 Requests for a review of suitability must be made within 21 days of the date the applicant is notified of the Council's decision
- 11.84 When refusing an offer of accommodation and requesting a review, the reasons for refusal must be provided to the housing solutions service, where a review officer or manager will review the case and make a decision on the applicant's review request within 8 weeks (56 working days).
- 11.85 The applicant will be advised to accept the offer, as the property will not be held whilst the review decision is being made. Any other bids made on other properties during this period will be discounted.
- 11.86 If the decision is that the offer was not suitable the applicant's priority will be reinstated to that prior to the refusal and they will be able to continue to bid.
- 11.87 If the review decision is that the offer was suitable and the applicant did not accept the property prior to requesting a review, the Council will notify the applicant that it has discharged its duty under homelessness legislation and that no further offers will be made. The application will then remain in Band 3.
- 11.88 If an applicant remains dissatisfied they can request a further review on a point of law through the courts.

## **12 Procedure after an application has been registered**

### **How the application is processed**

- 12.1** Once an applicant, with their household, has been checked against the eligibility and qualification criteria, their application will be assessed in accordance with this scheme to ensure that those in greatest need are given preference for an allocation, and the application will be awarded a banding (see section 11 for determination of bands).
- 12.2** The application will be registered by entering details onto the Council's Housing IT system. Once an application has been registered, the applicant will

be sent written confirmation of key details including their registration number and date, the band they have been assessed for, and which types of properties they can bid for. The letter will also confirm how to register and bid for properties.

### **Change of circumstances**

- 12.3 Once registered it is the applicant's responsibility to inform the Council of any change in their circumstances that affects their eligibility, qualification and/or priority or banding for housing. Examples could include but are not limited to:-
- A change of address, for themselves or any other person on the application.
  - Any changes in the household of where the applicant lives or in the household included on the application.
  - Any change in income and/or savings of the applicant.
  - If the applicant becomes a property owner.
  - Any medical/welfare or mobility needs which will affect the type of accommodation required by the applicant
  - Any changes to the immigration status of the applicant
- 12.4 If the change in circumstances results in a change to the application's banding or position within a band then a letter will be issued informing the applicant of the change.
- 12.5 Applicants must inform the Council of any change in their contact details.
- 12.6 If a change of circumstances is not notified to the Council prior to any offer of accommodation being made, the offer of accommodation maybe withdrawn/bypassed and the applicant's position within the register will be reassessed.
- 12.7 The Council carries out an automated review of the Housing Register, and failure to respond to any contact made as a result of such a review will also result in the application being cancelled. Further details of the annual review are set out here.

### **Annual Review of applications**

- 12.8 In order to maintain a Housing Register which accurately reflects current housing need, applicants will be required to respond to a review of their application at least once per year. This review process involves confirming whether any changes in circumstances need to be reported and if they want to remain on the register.
- 12.9 If an applicant fails to respond to the review letter within the allocated time of 28 days from the date of the letter and they have not been actively bidding, their application will be cancelled and removed. The applicant will then need to

register a new application and be reassessed with a new band and priority date, should they still have a housing need.

12.10 Cancelled applications will only be reinstated in exceptional circumstances at the discretion of the Housing Solutions Manager provided the request is received within 6 weeks and provided there were strong grounds for not responding, e.g. the applicant was in hospital and appropriate evidence is provided.

12.11 Where the Council identifies that an applicant has special requirements such as in terms of how the Council communicates with them, the Housing Solutions team will make all reasonable efforts to contact the applicant in a way that is acceptable to them. For example, if the applicant has sight issues, any communication can be sent in a specified font size, or if the applicant is vulnerable, any communication can be through a nominated third party.

### **Cancelling Applications**

12.12 Applications will be cancelled from the housing register in the following circumstances:

- A written request has been received to do so from the applicant/s
- There is no reply to the annual review,
- The applicant has been rehoused through the housing register, by being nominated to a Registered Provider or by a mutual exchange.
- The applicant has become disqualified
- The applicant has not placed any bids on properties within a year
- The applicant has refused 3 suitable offers of accommodation within a 12 month period.

12.13 The Council reserves the right to cancel an application where 3 offers of suitable accommodation have been refused by the applicant within a 12 month period. There is a subsequent right to a review of this decision which would be conducted by an officer not involved in any initial decision. An application will not be cancelled until applicants have refused 3 offers of suitable properties made since this policy was implemented.

12.14 Applicants will only have their application cancelled where they have failed to make bids on properties within a 12 month period since this policy was implemented.

12.15 Where any application has been cancelled, there will be a right to a review of this decision and the process to be followed in this respect is set out in section 13.

- 12.16 All applicants will be given a period of 21 days from the date of the Council's notification of its intention to cancel the application for the applicant to submit a review request and to provide the evidence necessary in this respect.
- 12.17 Where an application has been cancelled as a result of the applicant's failure to bid, applicants will not be able to re-join the housing register for a 3 month period unless there has been a significant change in the applicant's circumstances.

### **Band 1 and Band 1+ review (Priority Card)**

- 12.18 It is expected that all applications awarded Band 1 or Band 1+ have the most need to move and need to move quickly, therefore all applicants placed into Band 1+ and Band 1 will be subject to a 2-month initial time limit.
- 12.19 At the end of the initial 2 months, subject to a satisfactory review, the band 1/band 1+ status can be extended by a further 2 months, by which time there is an expectation that the applicant's housing needs would have been met.
- 12.20 Where an applicant does not bid or refuses 3 suitable offers of accommodation within this timeframe an application may forfeit their Band 1 status. If it is determined that the applicant should indeed forfeit their Band 1/1+ status, a reduced preference will be applied which will place them in Band 2, unless it is a homeless offer in which case different rules apply.
- 12.21 An applicant is entitled to review of the removal of the Band 1 status and this would be conducted by a more senior officer not involved in the original decision or the allocation panel.
- 12.22 Applicants will have 21 days in order to submit a review following a decision to demote the banding or following a refusal of accommodation by them.
- 12.23 Applicants awarded Band 1 through homeless, move on or best use of stock are only entitled to one offer of suitable accommodation.
- 12.24 Should following the review it be deemed there has been insufficient or suitable properties the applicants banding awarded would remain and will be reviewed every 2months until the banding can be discharged.
- 12.25 All applications in these top bands will be assigned an officer to ensure bids are being placed and where bids are not being made proxy bids will be made on available properties.
- 12.26 The review will ensure that housing staff are monitoring and supporting applicants in bidding or identifying other housing options.
- 12.27 This review does not apply to households accepted as statutorily homeless as they are processed differently and subject to different rules.

12.28 All applicants who are placed in these priority bands will require a suitability of accommodation assessment completed when they are placed in these bands. This will help identify which properties in which areas may or may not be suitable and will assist the officer assigned to their case when making proxy bids (if applicable). Any proxy bids made should be in line with this suitability assessment.

## **13 Reviews/ Appeals**

**13.1** Applicants have the right to request a review of these or any other decisions made by the Council. Examples of circumstances where a review of the Council's decision can be requested are where:

- The applicant is found to be ineligible
- The applicant is found to be disqualified
- The applicant's application has been cancelled due to their failure to bid.
- The applicant accepts the disqualification but is unhappy with the duration of the exclusion from the housing register
- Due to a change in circumstances, the applicant's banding is altered
- The applicant is unhappy with the banding awarded
- The applicant does not believe that an offer of accommodation was reasonable or suitable.

13.2 This review/appeal process only applies to decisions in relation to the housing register. Reviews and appeals in relation to homelessness decisions are subject to separate processes not covered within this Policy other than where there is an overlap for example, a review of suitability of accommodation.

13.3 Dependent on what the applicant wants reviewing or is appealing will depend upon which of the process outlined below will be followed.

13.4 The request for a review should be addressed to:

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

- 13.5 Where the applicant cannot write their own letter, they can visit the Council's reception at Marmion House, or telephone the Housing Solutions Service and a Council officer will help them.
- 13.6 Applicants will have a period of 21 days in order to request a review of any given decision. Officers will then have 28 days in order to complete a banding review or a period of 56 days in order to complete a suitability of accommodation review.
- 13.7 Whilst applicants are under review any bids applicants make will be discounted.

### **Review of Banding**

- 13.8 All new applications, any change of circumstances or where new supporting information has been provided will initially be assessed by a Housing Solutions Advisor. The applicant will be advised of the decision by a notification letter in writing which could include by email if this is appropriate.
- 13.9 If the applicant is dissatisfied with the decision that has been reached, the applicant can request a banding review within 21 days of the date of the notification letter.
- 13.10 A banding review will be dealt with by a more senior officer within the Housing Solutions Service than the one who made the original decision, who will assess all known facts and information available to them and will review the decision. The officer has 28 days from when the banding review has been received to make a decision and the applicant will be notified in writing.
- 13.11 If the senior officer determines that the information provided results in an amendment to the band then the date of the banding will apply from the date the latest piece of supporting information was received. If no new information has been supplied the band date would remain the original band date. The applicant will be advised in writing of the outcome of this review
- 13.12 If the applicant remains dissatisfied they have a final right of review which would be conducted by a manager. This must be received within 21 days of the 1<sup>st</sup> banding review. The manager will review the existing information and if the policy has been applied correctly, and will advise the applicant of the outcome within 28 days in writing.

### **Review of Disqualification**

- 13.13 Most decisions will initially be made by the Housing Solutions Advisors and any review of such decisions is undertaken by a more senior officer in the team not involved in the initial decision or the allocation panel. For any

decisions that are made by a Senior Officer or the Allocations Panel the reviews will be dealt with by the Housing Solutions Manager or a housing manager who has not had any previous involvement in a given case.

- 13.14 Decisions to disqualify from the Housing Register under the grounds of unacceptable behaviour or rent arrears would be made by the Council's Allocations Panel. The applicant will be called into an interview to discuss this and the interviewing officer would then present the case to the allocations panel. The applicant will be notified of the Panel decision by letter. When a decision has been made to disqualify an applicant from the Register they have the right to a review of this. The review will be carried out by the Housing Solutions Manager or manager not involved in the original decision.
- 13.15 All requests for a review must be made within 21 days of the date of the relevant notification letter.
- 13.16 The review must be considered on the basis of policy, law and known facts at the date of the review. The review will consider any representations, whether written or otherwise, made by the applicant or an advocate if the applicant is unable to put forward their own representation due to being vulnerable.
- 13.17 The disqualification review must be conducted within 56 days of the request being made.
- 13.18 A written notification of the decision, including the grounds of the decision, will be sent to the applicant. All correspondence will be sent to the applicant's home address or a mailing address of their choice. If the applicant is of no fixed abode, the decision letter can be collected from the Council offices at Marmion House in Tamworth where it will be held for 28 days from the date the decision is made.

### **Further reviews**

- 13.19 Where an applicant is unhappy with the Council's review decision, they are entitled to write to the Housing Ombudsman, 81 Aldwych, London, WC2B 4HN.
- 13.20 If an applicant remains dissatisfied and feels the Council have not acted correctly an applicant may also apply for a judicial review of the decision.

## **14 Affordability**

- 14.1 All successful bids will be screened for affordability.
- 14.2 Where an applicant applies to the housing register and they have nil income, the Housing Solutions Service will refer the applicant to the Council's debt advice service for further advice on income maximisation.

- 14.3** All applicants must be able to show that they are working and have sufficient income to pay their rent or that they are in receipt of appropriate benefits in order to afford the total amount payable for their property i.e. rent and additional costs such as service charges.
- 14.4** Tamworth Borough Council has a duty to protect the public fund it administers. Therefore, where an applicant is unable to demonstrate that they will be able to afford any offer of accommodation made to them, the Council retains the right to withdraw the offer.

## **15 Lettings plans**

### **Annual lettings plan**

- 15.1** The Council retains the right to develop a Lettings Plan based on an estimate of the number and type of properties that are anticipated to be available for letting. This plan could include specific opportunities for bidding, which may include limiting bidding for homes in higher demand to those in higher bands.
- 15.2 Should an annual lettings plan be developed this would be included as an Appendix and any annual lettings plan will be published on the Council's website [www.tamworth.gov.uk](http://www.tamworth.gov.uk) .

### **Local lettings plan**

- 15.3 *The Housing Act* <sup>13</sup> allows the Council to allocate particular accommodation to people of a particular description, whether or not they fall within the reasonable preference categories, provided that overall the Council demonstrates compliance with the Housing Act 1996.
- 15.4 The Council may at times use local lettings plans to allocate a property and facilitate sustainable communities. Factors that may prompt these include:
- Particular management problems identified in an area.
  - Allocation of a new or refurbished development to ensure the creation of a balanced and sustainable community, for example consideration of child density levels.
  - Planning requirements (also known as section 106 conditions)
  - Assistance with the wider strategic objectives of the Council, for example to remedy under-occupation of existing social rented homes.
- 15.5 Any local lettings plan, subject to member approval, will be published and appended to this Policy.

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<sup>13</sup> S167(2E) 1996 Housing Act

- 15.6 Annual impact assessments will be undertaken of local lettings plans, allowing for detailed consultation, review and monitoring of each as appropriate and enabling the Council to respond to a changing social and economic climate.

## 16 **Exceptional circumstances where the Allocations Scheme may be over-ridden**

- 16.1 There may be exceptional circumstances which are minor in number and nature such as direct lets, non-application of reduced preference, and best use of stock where an override to the policy may be approved by a Director subject to a sound business case.

### **Overriding the Policy**

- 16.2 There are some exceptional circumstances where this Scheme may be over-ridden in order for a specific property to be allocated. Examples could include:

- On a hard to let property where there are no natural eligible applicants the bidding criteria could be further expanded
- The home is adapted but applicants needing this adaptation would not ordinarily be eligible for that property type

- 16.3 Similarly, an over-ride may be approved in respect of certain applicants, for example:

- A direct match of a property is required for reasons of vulnerability or witness protection – in this case the home will not be advertised
- A need to decant tenants where their homes require major repairs, refurbishment or rebuilding
- Where applicant households are eligible for a 4 or 5 bedroom property but they are willing to consider a smaller home. This will be subject to considerations as to the sustainability of that home, and the legislation on overcrowding.

### **Direct Lets**

- 16.4 By way of exception to the choice based lettings there will be some direct lets, often referred to as management moves, direct offers or direct lets. These will occur where:

- The letting is sensitive and it should not be advertised either due to the property or the person, e.g., MARAC<sup>14</sup> referrals.

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<sup>14</sup> Multi-Agency Risk Assessment Conference

- An offer of accommodation to an applicant on a witness protection programme.
- An adapted property is identified by an Occupational Therapist as a suitable match for someone on the adaptations waiting list with requiring the need for significant or multiple adaptations. The requirement alone for a level access shower would not suffice due to them usually being more readily available and a lot of people requiring them on the housing register.
- The property is to be used as a decant or temporary accommodation

16.5 A direct let is simply an offer made direct to an applicant without the property being advertised, and therefore direct lets will only be made in exceptional circumstances in accordance with the criteria set out above. Allocations of this nature will be kept to a minimum to maintain a fair and transparent allocation scheme, with the majority of applications being made to applicants that fall within the reasonable preference categories as set out in the Housing Act 1996.<sup>15</sup>

16.6 Where an applicant refuses a direct match no further direct matches would be considered but would otherwise be entitled to remain on the housing register should they otherwise comply with the criteria of the policy and assessed under the same criteria.

16.7 An applicant who is subject to a direct let will only be entitled to one offer of accommodation. Any offer will need to be suitable and be subject to the review of suitability procedures

### **Serious Offenders**

16.8 Applications made by applicants who are subject MAPPA will be subject to a robust and appropriate assessment of their eligibility and will be considered where an applicant needs accommodation that can be suitably monitored and managed due to the risk the applicant may pose or any risk to the applicant themselves.

16.9 An allocation will only be made following a multi-agency risk assessment and once suitable accommodation has been identified and approved by a vulnerability panel.

16.10 This will consider MAPPA (Multi-agency Public Protection Arrangements) guidance for high risk offenders.

16.11 Applications following a referral of MAPPA will only be entitled to a direct let in order manage any risk involved.

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<sup>15</sup> S167(2) Housing Act 1996 as amended by Homelessness Act 2002

- 16.12 They will be restricted as to which properties they can bid for and properties will be identified and recommended for serious offenders by the Vulnerability Partnership. They will not be issued a band and will be subject to a direct match.
- 16.13 The final decision in relation to a property lies with the Housing Solutions Manager.

### **National Witness Mobility Scheme (NWMS)**

- 16.14 The Council and its partner Registered Providers support the NWMS and may consider at its discretion referrals made to house witnesses. In order to assist the national police force to tackle serious crime and to support witnesses in the legal process, the Council works in partnership with colleagues in the NWMS.
- 16.15 The scheme enables witnesses to relocate outside their area to a place of safety.
- 16.16 On receipt of a referral, the Council will take into account the level of risk the applicant is facing, and the demand and supply issues at the time in the borough of Tamworth and any acceptance of a referral will be determined by the Allocations Panel or Head of Service.
- 16.17 In order to protect the identity of the witness, the applicants will only be required to complete a housing application form, on acceptance of the referral. It will be necessary for the applicants to meet the eligibility criteria for entry onto the register in accordance with Section 7 and 8 of this policy, and the proof of identity requirements must be complied with. The local connection criteria will not be applicable.
- 16.18 The Council will identify a suitable property and an offer of accommodation will be made direct to the applicant.
- 16.19 Only one offer of suitable accommodation will be made and no restriction on the type of property to be offered will be accepted. The application will be cancelled if the offer is refused.

## **17 Data Protection and Confidentiality**

- 17.1 The Council abides by the Data Protection Act 2018 and any other relevant legislation to protect applicants' personal information and will process it for the purposes stated, and in accordance with the applicants' rights.

**17.2** Data collected from applications for housing is processed in line with the Data Protection Act 2018 and the General Data Protection Regulation (GDPR).

## **18 Fraud and Misrepresentation or information withheld by the applicant**

18.1 Tamworth Borough Council has a duty to protect the fund it administers, and to this end may use the information provided for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

18.2 It is a criminal offence for anyone to try and obtain accommodation from the Council or any other social housing provider by knowingly and recklessly giving a false statement or deliberately withholding information. Offences are prosecuted in the magistrates' court and are punishable by a fine of up to £5,000.

18.3 As part of the process to prevent fraud, applications may be subject to a full credit checking process. By making an application for social housing an applicant is agreeing to this process. There is also a declaration on the application form which an applicant is required to sign regarding sharing of information with other agencies and agreeing to the council to make all relevant enquiries.

18.4 The Council will refer applications to the Corporate Fraud Officer if there is any reason to suspect fraud and/or deception and this may lead to prosecution.

18.5 Applicants found guilty of such an offence will be considered ineligible for access to the Housing Register for 12month period.

18.6 The Council or other Registered Provider will also seek possession of any tenancy granted as a result of information later found to be false.

18.7 Where applicants are found to have committed fraud or supplied fraudulent information they will be disqualified from the housing register for a period of 12 months.

## **19 Equality and Diversity**

19.1 The Council's Choice Based Lettings Scheme and Allocations Policy have been designed to ensure that its services are fair and equitable for all of its customers.

19.2 The Allocations Policy is accessible to all of those eligible and does not discriminate against anyone on the grounds of age, disability, gender, race,

colour, national origin, sexual orientation or any other factor that may cause disadvantage.

- 19.3 Due to legal circumstances there may be occasions when applicants are unable to join the housing register. This criteria has been outlined within the Eligibility and Qualification sections of this Policy.
- 19.4 This Policy has been drafted with reference to the Equality Act 2010 and also with regard to the Council's Public Sector Equality Duty.
- 19.5 The Council remains committed to help customers and applicants who have difficulties and who are vulnerable, to access this scheme
- 19.6 The Allocations Policy and application forms can be provided in other formats if required, such as large print or braille.
- 19.7 This policy has been developed following a consultation

## **20 Tell Us about complaints, compliments and comments**

- 20.1 The right to review is included in section 11.
- 20.2 If there are any complaints, compliments or comments about this process, applicants are encouraged to use the Council's 'Tell Us' scheme. Details of the scheme which includes the Council's formal complaints procedure and the 'Tell Us' Policy can be found on the Council's website [www.tamworth.gov.uk](http://www.tamworth.gov.uk)

## **21 Review of this Scheme**

- 21.1 Where there are changes that are required urgently for legal reasons, minor in nature or changes in government policy and / or legislation, these changes will be approved by the Corporate Director of Communities, Partnerships and Housing.
- 21.2 Any major change required to the scheme will be subject to a full public consultation and member approval.
- 21.3 All changes to this Scheme will be noted within the Version Control of this Scheme and an updated policy document will be uploaded to the Council's website [www.tamworth.gov.uk](http://www.tamworth.gov.uk)