

# Neath Port Talbot County Borough Council

and

**Tai Tarian Limited**

## **DRAFT SHARED LETTINGS POLICY**

**2021**

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## SECTION 1 – Introduction

- 1.1 Neath Port Talbot County Borough Council (the **Council**) has a statutory obligation to formulate, adopt and amend an allocation scheme and where appropriate consult on proposed changes.
- 1.2 The Council in partnership with Tai Tarian Limited (Tai Tarian) has adopted this Lettings Policy. The policy meets the requirements in Part VI of the Housing Act 1996 (the **HA 1996**) (as amended by Homelessness Act 2002 and the Housing (Wales) Act 2014) (the **HWA**)), giving reasonable preference to those applicants in greatest need.
- 1.3 The Council retains full responsibility for the policy itself including any requirement to consult with stakeholders on any proposed changes to the policy. The Council has transferred to Tai Tarian the administrative functions and operation of a housing register (the **Housing Register**), which includes:-
  - a) The receipt of housing applications.
  - b) All assessment matters and decisions regarding eligibility under the scheme.
  - c) Carrying out any statutory review of a decision made.
  - d) Making sure that advice and information is given on allocations.
- 1.4 The allocation of properties by Tai Tarian will be undertaken in accordance with the provisions of this policy, which incorporates the following:-
  - Homes by Choice Scheme: applicants included on the Housing Register (or if authorised, the Council's Housing Options Team on behalf of such applicants) will be entitled to "bid" for vacant properties owned by Tai Tarian which are available for letting.
  - Banding Scheme: where applicants are placed in one of four bands of housing need according to their circumstances.
- 1.5 In addition to Tai Tarian properties, other Registered Social Landlords (**RSLs**) have agreements in place with the Council and information on these arrangements is contained in **Section 9** of this policy.
- 1.6 An Assured Shorthold Tenancy or Assured Tenancy will be offered by Tai Tarian (subject to legislation changes) to the successful applicant in accordance with the policy which takes into account the applicants' housing history. When the Renting Homes (Wales) Act 2016 (**RHWA 2016**) becomes operational, successful applicants will be given either standard occupational contracts or secure occupational contracts depending upon their housing history.
- 1.7 As a policy, this document sets out how the Council proposes to fulfil its statutory duties. Nothing in the policy is intended to conflict with those duties and where anything could be interpreted in more than one way, the way which corresponds most closely with statute will be applied. In addition, while setting out principles and procedures which shall normally apply, to provide a degree of certainty to Tai Tarian, and existing and prospective tenants, and how the Council has chosen to exercise

the discretions available to it, it is not intended to fetter the proper exercise of available discretion.

- 1.8 A summary of the Lettings Policy is available free of charge on request. A copy of the Lettings Policy is available on the Council's website ([www.npt.gov.uk](http://www.npt.gov.uk)) or Tai Tarian's website ([www.taitarian.co.uk](http://www.taitarian.co.uk)). A hard copy (full or summary) will be available from Tai Tarian and the Council upon request and may be provided in larger print, in braille or in a different language.

## SECTION 2 – The Legal Framework

- 2.1 Part VI of the HA 1996, as amended by the Homelessness Act 2002 and the HWA sets out the legal framework for the allocation of accommodation by Local Authorities and RSLs.
- 2.2 Tai Tarian will maintain the Housing Register and only qualifying persons shall be placed on it. The Welsh Ministers may by regulations add to or change the definition of a qualifying person. In accordance with the terms of the HA 1996 and related regulations, Tai Tarian will determine who may and who may not be included on the Housing Register.
- 2.3 A separate 'holding list' of persons who have not yet met the criteria for the Housing Register shall also be maintained by Tai Tarian.
- 2.4 The Council as a housing authority has a duty under Section 167 of the HA 1996 to ensure that in letting its properties it gives reasonable preference to certain categories of people housing need. These are:-
- People who are homeless.
  - People owed certain homelessness duties.
  - People living in unsatisfactory housing conditions (including insanitary or overcrowded housing).
  - People with a particular need to move on medical or welfare grounds.
  - People with a particular need to move to avoid hardship.

Subject to this requirement, the Lettings Policy may also reflect local priorities.

- 2.5 In applying this policy, in accordance with Section 149 of the Equality Act 2010 (the **EA 2010**), regard will be made to the need to:-
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the EA 2010.
  - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
  - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 2.6 In framing the Lettings Policy to provide a choice of accommodation to applicants, the policy and any adopted procedures shall meet any obligations by other existing legislation, in addition to Part VI of the HA 1996, including:-
- Housing (Wales) Act 2014.
  - The Human Rights Act 1998.
  - The Freedom of Information Act 2000.
  - Data Protection Act 2018 and UK General Data Protection Regulations (the "**UK GDPR**") (together the "**Data Protection Legislation**").
  - The Equality Act 2010.
  - Housing Act 2004.

- The Homelessness Act 2002.
- Anti-Social Behaviour, Crime and Policing Act 2014.
- The Rent (Agriculture) Act 1976.
- The Welsh Language Standards and Regulations made under the Measure

2.7 Regard will be given to the EA 2010 (Statutory Duties) (Wales) Regulations 2011 and the Council's Strategic Equality Plan.

2.8 Nothing contained in this policy shall prevent the Council and Tai Tarian from developing and agreeing local lettings policies to meet specific local issues and where relevant these local lettings policies shall apply in addition or instead of the provisions in this policy. Any such local lettings policy drawn up and entered into shall be published. All local lettings policies shall be monitored by the Council to ensure that overall this policy operates to give reasonable preference for allocations to applicants in the reasonable preference categories (s.167(2) of the HA 1996). Prior to being implemented and upon review, all local lettings policies shall need to be equality impact assessed to ensure they do not unlawfully discriminate against any of the protected characteristics listed in the EA 2010.

2.9 All local lettings policies must have clear aims and be linked to creating balanced and sustainable communities. They shall be based upon evidence which demonstrates a need for the intended approach.



## SECTION 3 - Data Protection

### 3.1 Data Protection

3.1.1 All personal data processed by Tai Tarian is subject to the requirements of the current Data Protection Legislation. This means that Tai Tarian must have a lawful basis to process personal data about the applicant or any household member included in that application. Whilst one such lawful basis is consent of the applicant, the Data Protection Legislation provides for other lawful bases for processing personal information that do not require consent – please see below for further details in relation to such lawful bases.

3.1.2 Further information as to how Tai Tarian process personal information can be found in Tai Tarian's privacy statement - <https://www.taitarian.co.uk/privacy-statement/>.

### 3.2 Processing Personal Data

3.2.1 An applicant's personal data may be processed (including shared with other organisations) about an applicant or any household member included in the application where there is a lawful basis to do so. This may include the following instances:-

- Tai Tarian have the applicant's consent to process their personal data (for example, if the applicant want Tai Tarian to discuss their tenancy or application with a member of their family or another representative we will ask for their consent).
- The processing is necessary for the performance of a contract to which the applicant is a party (for example, Tai Tarian may need to conduct a credit check before they offer the applicant a property to ensure they can afford to maintain the rent payments and/or to administer the tenancy agreement with the applicant).
- Processing is necessary for compliance with a legal obligation to which we are subject to (for example, for the prevention or detection of crime and fraud, or safeguarding issues).
- Processing is necessary in order to protect the vital interests of the applicant or another person (for example, where there is a serious threat to the applicant or third party, including staff or appointed contractors or to safeguard vulnerable adults or children).
- Processing is necessary for the purposes of our legitimate interest (for example, for the efficient running of the Tai Tarian organisation, to develop and improve the properties).

### 3.3 Information Sharing

- 3.3.1 Normally, only Tai Tarian staff will be able to see and process applicants' personal information. However, there may be times when Tai Tarian will share relevant information with others for the purposes listed below or where the law requires to do so. When sharing personal information, Tai Tarian will comply with all aspects of Data Protection Legislation.
- 3.3.2 Information on applicants will be shared with and made available to the Council in accordance with our Information Sharing Protocol. Information will only be shared between the Council, Tai Tarian and other bodies where we have a lawful basis to do so in accordance with the Data Protection Legislation. This will usually be on the basis of processing is necessary for compliance with a legal obligation to which Tai Tarian is subject or processing is necessary for the purposes of Tai Tarian's legitimate interest.
- 3.3.3 Data sharing with other agencies may take place where we have a lawful basis to do so in accordance with the Data Protection Legislation. This will usually be on the basis of the applicant's consent, processing is necessary for compliance with a legal obligation to which Tai Tarian is subject or processing is necessary for the purposes of Tai Tarian's legitimate interest.
- 3.3.4 Information may also be made available to other housing providers for the purpose of allocating housing, assessing applications or identifying current or former tenant arrears. Again, this will usually be on the basis of the applicant's consent, processing is necessary for compliance with a legal obligation to which Tai Tarian is subject or processing is necessary for the purposes of Tai Tarian's legitimate interest.
- 3.3.5 Tai Tarian may conduct credit reference checks to obtain information on an applicant's circumstances to assess their application for housing. The lawful basis Tai Tarian usually rely on for this purpose is legitimate interest.
- 3.3.6 Tai Tarian may enter into information sharing protocols with other agencies such as the Police.
- 3.3.7 Before sharing information, Tai Tarian will ensure that the organisation given the information shall fully comply with the requirements of the Data Protection Legislation.

## **SECTION 4 – Access to Housing**

### **4.1 The Housing Register**

4.1.1 Tai Tarian will manage the Housing Register which comprises both existing tenants wishing to transfer to another dwelling owned by Tai Tarian and new applicants for accommodation.

### **4.2 Who Can Apply**

4.2.1 The Housing Register is open to all individuals who are not excluded as defined in the HA1996 or deemed to be ineligible (see **Section 4.4 - Exclusions**).

4.2.2 Anyone can register an application who is aged 16 years and over, unless they are subject to immigration control or excluded on the grounds of “unacceptable behaviour” (see **Section 4.4**), providing they are not already registered for housing on their own or on some else’s application.

4.2.3 Persons under the age of 16 years will be considered on an individual basis depending on their personal and housing circumstances, provided that:-

- They have not already made an application or are included as an applicant on someone else’s application.
- Tai Tarian is satisfied that they have the sufficient capacity to understand the rights and obligations required of them to occupy a property let by Tai Tarian.

4.2.4 If an applicant is aged under 18 years they cannot legally hold a tenancy. In such cases, the legal tenancy will be held on trust for the minor, until they reach 18 years. When RHWA 2016 applies, an applicant under the age of 18 years cannot be granted an occupational contract and will need to be granted a licence or a tenancy held in trust.

4.2.5 If a joint application is made by two persons, one of which is under 18 years then the legal tenancy will be held on trust by the applicant aged over 18 years until the other applicant reaches 18 years, when they can legally become the joint tenant. This will also be the position under RHWA 2016 with occupational contracts.

4.2.6 All 16 and 17 year old lone parents who cannot live with their parents, carer or partner and who are allocated housing under this policy, shall be assessed to ascertain if they need accommodation with support. Tai Tarian will liaise with parents or carers and the relevant support agencies to ensure an appropriate support package and plan is in place before any offer of accommodation is made. Tai Tarian will require support agencies to provide evidence of the assessment and the support package which is in place.

4.2.7 Under Section 166 of the HA 1996, all applications must be considered. An applicant who is subject to immigration control can make an application for housing but any application must be rejected because Section 160A of the HA 1996.

4.2.8 Section 160A of the HA 1996 states that a Local Housing Authority shall only allocate housing accommodation to people who are eligible to join the scheme. The following persons are not eligible to join the Housing Register:-

- Persons from abroad who are subject to immigration control and not re-included by regulations. Further guidance is included at **Appendix 1**.
- Any other person as prescribed by the Welsh Ministers.
- Where an applicant or a member of the household is considered to be guilty of unacceptable behaviour which is serious enough to make them unsuitable to be a tenant and at the time of their application for housing and they are still considered unsuitable to be a tenant due to that behaviour (see **Section 4.4**).

Note that the above immigration eligibility rules do not affect the eligibility of a person who is already:-

- A secure or introductory tenant.
- An assured tenant of housing accommodation allocated to him by a Local Housing Authority in Wales.
- When operational, a contract holder under the RHWA of a property owned by a RSL or local authority.

Such applicants will be eligible regardless of their immigration status.

4.2.9 Any application by a person subject to the Asylum and Immigration Act 1996 (or any succeeding legislation) shall be assessed in accordance with the provisions of that Act.

4.2.10 Social Housing tenants (those who have an existing tenancy with any local authority or RSL or Registered Provider in England) within the household making the application must be registered as either the applicant or a joint applicant, so that when a new tenancy is accepted their existing home will be vacated.

### 4.3 **Making an Application for Housing**

4.3.1 All applicants shall be required to register an interest in applying for accommodation by following the instructions on how to apply on Tai Tarian's website ([www.taitarian.co.uk](http://www.taitarian.co.uk)). If the applicant is not considered eligible at this stage an application will not be deemed to be "live". This means the application will not proceed to the assessment stage but will be put on hold until it is considered eligible. Information on personal circumstances may then be verified and they shall be informed of the likelihood of their being accommodated in the near future.

- 4.3.2 Advice and assistance is available for anyone who experiences a difficulty in applying for housing.
- 4.3.3 Applicants shall be informed if they are required to provide certain information to Tai Tarian to determine how their application will proceed. In addition, checks shall be made with the appropriate sources to complete and/or verify the information provided such as credit checks.
- 4.3.4 A full assessment where required shall be undertaken using the most appropriate method. Applicants shall be informed that if their application is successful, they shall be required to pay rent in advance in accordance with the tenancy agreement at the start of the tenancy.
- 4.3.5 Translations of any forms and notes including translation and interpreting facilities shall be made available upon request from applicants.
- 4.3.6 Applicants may use correspondence addresses as detailed below:-
- **No Fixed Abode** – If an applicant is applying as “No Fixed Abode” (NFA) then they should provide a correspondence address if at all possible. This could for instance be the Housing Options Team or a support agency. If an applicant who is of NFA cannot provide a care of address as a correspondence address then they shall be asked to provide an e-mail address and/or telephone number, so that any communications to them can be made via those methods.
  - **‘Care of’ Correspondence Address** – We recognise that due to personal circumstances some applicants may wish to have all correspondence relating to their application sent to a different address other than the one at which they are residing. The applicant shall be required to provide the address and accommodation details of where they are residing as banding will be assessed on where the applicant is living.
- 4.3.7 At any stage during the application process Tai Tarian may undertake a visit to the applicant's current place of residence to verify the circumstances provided by the applicant in the application.
- 4.3.8 An applicant has the right to request a review, which includes those decisions relating to eligibility for or an offer of accommodation, the band and the property size category to which they have been allocated. See **Appendix 9** for further details.

#### 4.4 Exclusions from the Housing Register

- 4.4.1 All applicants shall be assessed for their eligibility for inclusion on the Housing Register. This shall be considered taking into account their immigration status, as detailed above, past and present conduct and other relevant matters.

- 4.4.2 Persons subject to immigration control, under the Asylum and Immigration Act 1996 are statutorily excluded from accommodation unless they fall within certain exception categories (see **Appendix 1**).
- 4.4.3 An applicant may be excluded from the Housing Register as a result of unacceptable behaviour. If it is reasonable and proportionate to do so, we will take into account all relevant factors such as vulnerability, health and individual circumstances when making decisions on exclusion.
- 4.4.4 The only behaviour that may be regarded as unacceptable is defined as behaviour by an applicant or member of their household which would, if they were a secure tenant of a local authority, entitle the landlord to a possession order under any of the Grounds 1 to 7, Schedule 2 of the Housing Act 1985.
- 4.4.5 The procedure and principles to be applied in determining exclusion are set out in **Appendix 2**.
- 4.4.6 Subject to **Section 4.4.4** this policy allows for applicants or members of their prospective household to be registered on the Housing Register but their application **may not be considered 'live'** until such time as they have addressed current or past behavioural issues. The following criteria will apply where the applicant or a member of their prospective household has:-
- failed to maintain their current or any previous social rented or private sector rented property within the terms of their tenancy agreement; or
  - committed acts causing or likely to cause nuisance or annoyance to their neighbours or others in the locality of where they live or where they previously have lived.
- 4.4.7 In such instances as described in **Section 4.4.6** above, the applicant and members of their prospective household shall be informed of the action(s) that they will need to take before the application will be made 'live'. This may include co-operation over a period of time with support agencies, social services or other organisations where the express outcome is that there is a significant improvement in their conduct. Any action required to be undertaken must be reasonable and proportionate, and take into account the protected characteristics of the individual.
- 4.4.8 A Tai Tarian appointed person will decide whether sufficient action has been taken by the applicant to address the issue so that an offer of accommodation can be made. The status of the application shall be reconsidered when there is evidence that:-
- the applicant (or a member of their prospective household) has addressed their behaviour to the satisfaction of a Tai Tarian appointed person: and
  - there has been no cause for complaint against the applicant (or members of their prospective household) for a continuous period of 6 months from the point where action has been agreed with the applicant to address their or a

member of their prospective household's behaviour or other identified problems.

#### 4.5 **Applications from Board Members, Staff or their Close Relatives**

4.5.1 The following persons may apply for accommodation under this scheme, subject to the limitation set out below:-

- a) An officer (which includes a Board Member) or employee of Tai Tarian.
- b) A person who at any time within the preceding twelve months has been a person within paragraph (a).
- c) A close relative (as defined in the Determination) of a person within paragraph (a) or (b).

On application they must declare their position within Tai Tarian, their employment with Tai Tarian or their relationship to a Tai Tarian employee.

4.5.2 On applying to join the Housing Register they will neither be advantaged nor disadvantaged as a result of their position or relationship.

4.5.3 If an applicant fulfils the above criteria their application shall be determined in accordance with this policy and in accordance with the Permitted Payments and Benefits (Wales) Determination 2010 (the **Determination**) and the Welsh Assembly Government's Circular RSL 005/10 (or under any amended version as appropriate, on permitted payments and benefits).

4.5.4 If such an applicant is to be made an offer of accommodation, approval must be sought from the Tai Tarian Schedule 1 and Membership Committee (acts in accordance with delegated authority from the Board) and for Board Members from the Welsh Government, prior to any accommodation being allocated to them.

#### 4.6 **Incomplete Applications**

4.6.1 If an application has commenced and it is considered that further information is required and it has not been provided by the applicant within a reasonable period of time (28 days) from the request, Tai Tarian may decline to register the application and a new application may be required.

4.6.2 Applications may not be considered 'live' until all information requested has been provided by the applicant. Applicants will be asked to provide documentation which is reasonably required for the purpose of assessing their application and which they can reasonably be expected to provide.

4.6.3 Until an application has been deemed 'live' it will remain on the holding list and the applicant will not be eligible to bid for accommodation.

4.6.4 There may be occasions where an incomplete application can be made live. This will generally apply where an application is complete except for evidence

to substantiate an award of further priority. In such instances the application may be made live and the applicant placed in the appropriate band based on the information and documentation available at that time.

4.6.5 An award of further priority shall not be made until such a time as information is provided to substantiate that further priority.

4.6.6 If as a result of information given at the assessment stage a visit is required to the home of the applicant the application shall not be made 'live' until the satisfactory completion of the visit.

#### **4.7 False or Withheld Information**

4.7.1 If an applicant provides false or misleading information when their application is assessed they may be excluded from the Housing Register.

4.7.2 If it is found that an existing applicant who is already on the Housing Register has provided false or misleading information, they may be removed from the Housing Register and may be found ineligible for future applications.

4.7.3 Where there is a suspicion, or an allegation has been made that a person has either provided false or misleading information, or withheld information, the application shall be 'Held' pending the outcome of the investigation into the application.

4.7.4 If the outcome of the investigation reveals that false or misleading information was not provided, or the withholding of information was found to be inadvertent, then the application will be re-instated from the date of entry into the band.

4.7.5 Where the investigation shows that false or misleading information was provided, or information deliberately withheld, then the application may be removed from the Housing Register and the applicant may be ineligible for future applications.

4.7.6 Ground 17 in Schedule 2 of the Housing Act 1988 enables Tai Tarian to seek possession of a property where it has been let as a result of a false statement made by either the tenant or a person acting at the tenant's instigation.

4.7.7 Under Section 171 of the HA 1996 a person commits an offence if, in connection with the exercise by a Local Housing Authority of their functions under this Part 6 of the Act:-

- They knowingly or recklessly makes a statement which is false in a material particular, or
- They knowingly withhold information which the Authority have reasonably required them to give in connection with the exercise of those functions



A person guilty of an offence under this Section is liable on summary conviction to a fine of up to £5,000.

#### 4.8 **Deliberately Worsening Circumstances**

4.8.1 Applicants must not deliberately worsen their housing circumstances to gain greater priority under the scheme. Examples follow but this is not an exhaustive list.

*Examples of this are:-*

- *Applicants who have allowed family members or others to move into their property, who previously had suitable accommodation or the financial means to secure their own accommodation, and this has resulted in the property being overcrowded.*
- *Applicants who have moved from previously suitable or more suitable accommodation which it were reasonable for them to continue to occupy, into a less suitable property.*
- *Homeowners who have transferred their property to another family member within the last 5 years from the date they make their application to the Register.*
- *Giving up affordable and suitable private rented accommodation which they are able to maintain, to move in with other relatives or friends, creating a situation of overcrowding and/or sharing of bathroom/kitchen and/or a split household;*
- *Requesting or colluding with a landlord or family member to issue them with a Notice to Quit.*

4.8.2 Where Tai Tarian believes this to be the case the applicant shall be awarded the band that they would have been entitled to had they not worsened their housing circumstances.

4.8.3 The above applies to action by any person acting with the knowledge or consent of the applicant.

4.8.4 When assessing whether an applicant has deliberately worsened their housing circumstances, regard shall be made to whether the act giving entitlement to additional priority was justified and reasonable in all the circumstances of the case.

#### 4.9 **Change in Circumstances**

4.9.1 It is the responsibility of the applicant to advise Tai Tarian of any change that may affect their housing application.

4.9.2 When a change in the applicant's circumstances results in the applicant moving into a different band their effective date will be in accordance with **Section 5.2.1**.

4.9.3 In some cases a change in circumstances may require a further assessment to be undertaken at which point the application shall be 'held' until the satisfactory completion of the new assessment.

#### 4.10 **Applicants Who May Require Support**

4.10.1 Where an applicant may be unable to properly fulfil the terms of Tai Tarian's Tenancy Agreement or has specific high level support needs (due to vulnerability, specific support requirements or factors that relate to the application), an assessment shall be made of all the available information. This may include a needs assessment for specific accommodation such as Haven and/or a tenancy management assessment, as well as a capacity assessment.

4.10.2 Following consideration of the information a decision will be taken to, either:-

- Allow the application to proceed with no special conditions so that a bid can be made for any accommodation the applicant qualifies for.
- Allow the applicant to bid for properties but on the condition that an offer of accommodation will only be made where there is a commitment from the appropriate support agencies to provide a suitable support package and plan, and where the applicant accepts support including tenancy support/intensive management from the start of the tenancy.
- Allow the applicant to be considered for special accommodation that may only be found through supported housing and in certain areas allocated outside the Lettings Policy. This may involve referring the applicant to another organisation so that suitable accommodation can be considered.

#### 4.11 **Local Connection**

4.11.1 Anyone living outside the Neath Port Talbot County Borough Council area (the **County Borough**) can apply to join the Housing Register subject to their eligibility. However, to meet local housing need, certain priority in terms of banding shall be given to persons who have a local connection to Neath Port Talbot.

4.11.2 For the purposes of the Lettings Policy a 'Local Connection' is defined as follows:-

- An applicant or a member of their household currently lives in the County Borough
- An applicant or member of their household is employed within the County Borough. This refers to where they work and not where the employer's Head Office is located. Employment will only qualify under this section if it is permanent or long term work and for a minimum of 15 hours every week

- An applicant or member of their household has a close relative (mother, father, brother, sister or adult child) who lives in the County Borough and has done so for the past five years on a continuous basis
- The applicant has just been or is about to be discharged from the British Armed Forces and who lived in the County Borough immediately before joining the Armed Forces
- The applicant has special circumstances, such as medical or support services that are only available in the County Borough. Cases of this nature are considered to have a local connection on exceptional grounds
- Where the applicant is a serving member of the Armed Forces then they, and other persons who normally live with them as part of their household, do establish a local connection with the County Borough by virtue of serving, or having served, there while in the forces.

4.11.3 An applicant who applies under 'No Fixed Abode' will need to prove a local connection to the County Borough. If they cannot do this they will be placed in the Bronze Band.

4.11.4 Where an applicant (other than an applicant at risk of domestic abuse – as defined in Section 58 of the HWA) has no local connection to the County Borough they shall be placed in the Bronze Band. If an applicant has a health or welfare need which does not require a move solely to the County Borough they will remain in the Bronze Band and advised to contact their own Local Authority for assistance.

4.11.5 Where an applicant is assessed as at risk of domestic abuse (as defined in Section 58 of the HWA) and has no local connection to the County Borough they will be placed in the Urgent or Gold Band in accordance with the Council's duty under the HWA.

#### 4.12 **Cancelling an Application**

An application may be cancelled for one or more reasons. Examples follow but this is not an exhaustive list.

- An applicant requests that their application is cancelled.
- An applicant accepts an allocation through the Lettings Policy.
- There is a change in the applicant's circumstances that makes them ineligible.
- An applicant fails to respond to a review of their application.
- An applicant is found guilty of providing false or misleading information that is serious enough to remove their application from the Housing Register.
- An applicant with a housing need who has not bid for suitable properties in their area of choice for 6 months or more.
- Applicants who bid or are subject to direct bids and who fail to respond to potential offers of accommodation (**Section 8.3**).
- Where the Council's Housing Options Team closes the application it must send its reasons for doing so to Tai Tarian.

- An applicant has been re-housed in a secure or assured (including a Starter Tenancy) (or occupational contract under the RHWA 2016) by another RSL in or outside the County Borough.
- An applicant who is already an RSL tenant has a mutual exchange.
- Where an applicant has been excluded under **Section 4.4.3** due to unreasonable behaviour and they have failed to respond to a review of their application or they have failed to provide evidence of a change in their behaviour which would allow for consideration of eligibility within a reasonable timescale.
- Where a decision has been made under **Section 4.4.2** that the applicant is ineligible on immigration grounds and they have not asked for a review of that decision within the time limit or they have asked for a review and the decision has been upheld upon review.

#### 4.13 **Notification of Decision**

4.13.1 Following an assessment of their application, if deemed eligible for the scheme, the applicant shall be advised of the outcome which shall detail the following:-

- The band in which their application has been placed.
- Their applicant category, which demonstrates the size and type of accommodation they can bid for.
- Their chosen area/s.
- A unique reference number, which can be used for any contact.
- Any other relevant information.

4.13.2 If the applicant is deemed ineligible for the scheme then the applicant will be informed of the reason their application is considered ineligible.

4.13.3 Tai Tarian may, at any time (including after notification of the band and/or category) review the decision (irrespective of whether or not new information is available) and may, where the review concludes that the earlier decision was incorrect, amend the decision (including the decision on the band and/or category). If Tai Tarian does so, it will write to the applicant setting out its reasons for the change in the band or category.

4.13.4 An applicant has the right to request a review of various decisions as detailed in **Appendix 9** of this policy.

#### 4.14 **Application Review**

4.14.1 There shall be a regular review of the Housing Register which includes a review on the anniversary of each application. This will help ensure applicants' positions within bandings are correct and bidding activity is appropriate. If an applicant fails to respond to the periodic review then their application may be cancelled. As part of the review process, we will ask the applicant to provide updated details about their circumstances which are relevant to their application. In addition, applicants' details are reviewed when bids are being considered and at the point of allocation.

4.14.2 Any change of circumstances, or where an applicant with a housing need has not bid for suitable properties in their area of choice for 6 months or more, may result in:-

- Them being placed into a different band.
- Another eligibility assessment.
- Their application being cancelled.

## **SECTION 5 – Assessment of Need**

### **5.1 How an Application is Assessed**

- 5.1.1 To assess applicants a needs based banding system shall be operated.
- 5.1.2 An applicant shall be placed in the band which reflects the level of their housing need, so the higher the housing need, the higher the band. This is based upon their lead need and not a cumulative number of housing needs.
- 5.1.3 The applicant shall be notified of their eligibility and also the band into which they have been placed according to their housing needs following the assessment of their application. Information shall be given on the size and type of accommodation for which the applicant will be considered depending on the number of people in their household. This will help the applicant assess the likelihood of when an offer of suitable accommodation may be made.
- 5.1.4 Consideration will be given to determining whether an applicant is unable to resolve their own housing need.
- The first stage is to identify an applicant's particular housing needs. Each applicant will have different housing needs of varying degrees. The procedures for assessing applications require that an applicant's identified housing needs are recorded on the assessment documentation.
  - The second stage is to assess whether the applicant can reasonably meet those housing needs themselves. Regard will be given to the applicant's financial ability to reasonably meet their own housing needs. Consideration will also be given to an applicant's age, health and other personal circumstances in order to establish if they are able to themselves meet their identified housing needs.
- 5.1.5 Financial assessments may be carried out at housing application stage to complete affordability checks and help ensure future tenancies are sustainable. Assessments are focused upon applicants who receive benefits, those who may be ineligible for benefits, are subject to the bedroom tax, in low paid employment or who have former tenant arrears. Prior to any allocations being made, checklists for allocations and affordability are completed to assess applicants' ability to pay their housing costs. Consideration is also given to the housing costs of various property types which may be allocated. Where it is identified that applicants require assistance, benefits, budgeting and digital advice is offered to maximise income and help match applicants in terms of what they can afford to suitable property types.
- 5.1.6 An applicant has the right to be informed of any decision about the facts of their case and how those facts are to be taken into account when considering whether to allocate housing to them.

## 5.2 How Housing Need is Assessed

5.2.1 Eligible and qualifying applicants shall be placed in one of the following four bands in date order. The bands provide reasonable preference to those seeking assistance in accordance with Section 167(2) HA 1996.

### 5.2.2 Urgent Band – Urgent Housing Need

5.2.3 This band is for applicants who have an urgent housing need, who need immediate re-housing and who are unable to resolve their housing need on their own. Priority within the Urgent Band is determined in date order of entry into the Urgent Band and not by the original application date.

5.2.4 Applicants who are placed within the Urgent Band shall have their case reviewed after three months to ensure their circumstances still demonstrate an urgent housing need and that they are actively bidding for suitable available properties. A review shall also be undertaken of what properties have become available. This may result in either:-

- A direct let – usually for statutory homeless applicants living in temporary accommodation (see **Section 7.2**).
- Priority being maintained.
- Moving into a lower priority band if the circumstances under which they were placed in the Urgent Band no longer apply.

### 5.2.5 Gold Band – High Housing Need

5.2.6 This band is for applicants whose housing need is high and who are unable to resolve their housing need on their own. Subject to the 'Applicants Who Move Between Bands' section below, priority within the Gold Band is determined in date order of entry into the Gold Band and not by the original application date.

### 5.2.7 Silver Band – Medium Housing Need

5.2.8 This band is for applicants who have a medium housing need and are unable to resolve their housing need on their own. Subject to the 'Applicants Who Move Between Bands' section below, priority within the Silver Band is determined in date order of entry into the Silver Band and not by the original application date.

5.2.9 Applicants in the Silver Band will either have a lesser degree of reasonable preference than those applicants in the Gold Band or some other housing need.

### 5.2.10 Bronze Band – Low/No Housing Need

5.2.11 This band is for applicants with either:-

- Low housing need

- No recognised housing need
- With a housing need but no local connection as detailed in **Section 4.11**.

5.2.12 Due to the high demand for properties, applicants are unlikely to receive an offer of accommodation in many areas of the County Borough under this scheme. Priority within this band will be arranged in order of entry into the band.

5.2.13 **Appendix 3** of the policy contains detailed criteria for each of the bands.

#### 5.2.14 **Applicants Who Move Between Bands**

5.2.15 Where an applicant's case is reviewed and they move downwards between bands then their date priority in the new band will be the original date of entry into the higher band.

5.2.16 Where the reason is due to a change in the housing applicant's circumstances which Tai Tarian has been notified of; their date priority in the lower band will be the original date of entry into the higher band.

5.2.17 When a change in the applicant's circumstances results in the applicant moving up a band, their effective date will be the date of the decision following notification of the change and not their original registration date.

### 5.3 **Discretion to award no priority or adjusted priority where applicant/household member has been guilty of unacceptable behaviour**

5.3.1 A Tai Tarian appointed person may, pursuant to Section 167(2C) of the HA 1996 decide not to award the reasonable preference band that an applicant would otherwise have been entitled to by reason of them falling within one or more of the categories in Section 167(2) if satisfied that:-

- The applicant, or a member of their household, has been guilty of unacceptable behaviour serious enough to make the applicant unsuitable to be a tenant of the authority, and
- In the circumstances at the time their case is considered, they deserve by reason of that behaviour not to be treated as a member of a group of people who are to be given preference by virtue of sub-section (2).

5.3.2 If the decision is to award, "no/adjusted priority" then it shall be communicated to the applicant, setting out the reasons for the decision together with information about their right to request a review of that decision. **Appendix 9** sets out the review procedures. See **Appendix 2** of the policy for more details about how an applicant may be awarded no priority or adjusted priority due to their previous unacceptable behaviour.

5.3.3. For homeless applicants who are owed certain duties by the Council's Housing Options Team, notification will also be sent to the Housing Options Team of



the intention to award no/adjusted priority to such applicants (see **Appendix 2** for full details)

#### 5.4 **Applicant does not have a local connection but falls within Section 167(2)**

5.4.1 Applicants who fall within one or more of the five “reasonable preference categories” in Section 167(2) of the HA 1996 but who do not have a “local connection” with the County Borough shall be placed into Bronze Band.

5.4.2 Applicants who are assessed as being at risk of domestic violence (as defined by Section 58 of the HWA) but do not have a local connection with the County Borough where the Council has accepted a statutory duty shall be placed into the Urgent or Gold Band.

5.4.3 There may be exceptional circumstances when it is not deemed appropriate to reduce priority to an applicant who would otherwise fall within one of the higher bands (Urgent, Gold, Silver) but who does not have a local connection with the County Borough. If exceptional circumstances exist, an applicant may be placed in one of the higher bands.

#### 5.5 **Environmental Health Assessment**

5.5.1 The Council’s Environmental Health Department in accordance with their responsibilities for enforcing environmental health legislation, will where appropriate, conduct assessments for applicants relating to insanitary, overcrowded or unsatisfactory housing conditions (see **Appendix 8**).

## **SECTION 6 – Allocations Through Homes by Choice**

- 6.1 Most Tai Tarian properties that are vacant and available for letting shall be let through the Homes by Choice Scheme. This scheme offers applicants choice by advertising vacant properties on a regular basis. However applicants need to be aware that if they do not accurately list their chosen areas, this may affect their ability to bid on a property in any Homes by Choice advertisement.
- 6.2 Any applicant who wishes to be considered for a property on the Homes by Choice Scheme shall be expected to submit a bid for that property in accordance with the process as outlined below.
- 6.3 All applicants on the Homes by Choice Scheme shall be placed in a band, based on their housing need as detailed in **Section 5** and the size of property that matches their household size (see **Appendix 4** for Property Size and Type of Property).
- 6.4 Applicants shall receive formal notification of their category, their chosen area/s and also the size and type of accommodation for which they can bid following the assessment of their application.
- 6.5 When a property is advertised as available through the Homes by Choice Scheme it will detail the category, size and type and which applicants can apply to bid for that property.
- 6.6 A property advertised through Homes by Choice may be withdrawn at any time at the discretion of Tai Tarian.
- 6.7 Applicants should be aware that available accommodation is limited in certain areas of the County Borough so that choice may be limited.
- 6.8 The Council wishes, as far as possible, to give choice to applicants seeking accommodation. However, giving choice must be set against the need for the Council to resolve some applicants' housing situation urgently; for example, where there is a homeless household to whom there is a statutory duty to provide housing or households at risk of violence. As a result, in certain circumstances choice may be limited.
- 6.9 For any applicant owed a homelessness duty under section 66, 73 or 75 of the HWA (or under Part 7 of the HA 1996 for applications made before 27 April 2015) the Council may make a direct bid (defined as bidding on their behalf or making a direct bid outside of the Homes by Choice Scheme) at any time and is not constrained by any time period to allow an applicant an opportunity to bid for accommodation. The offer of accommodation could be made in any area of the County Borough. The decision to make a direct bid could be where:-
- An applicant is not being realistic in the areas and/or property size for which they are bidding and the temporary accommodation they may be occupying may be needed for another newly presenting homeless applicant.

- Any other financial or operational reasons whereby the Council needs to house households owed a homeless duty.
- 6.10 The Council will ask applicants owed a homelessness duty to state those areas where they believe they cannot live and account will be taken of such factors. Those households owed a homelessness duty under section 66, section 73, or section 75 of the HWA (or under Part 7 of the HA 1996 for applications made before 27 April 2015) or applicants who are considered homeless within the meaning of Part 2 of the HWA, will lose their priority status banding if the duty owed to them is ended due to the refusal of a suitable offer of accommodation.
- 6.11 As a result, unless they have another reason to be awarded the Urgent or Gold Band they will be moved to a lower band. The offer of suitable accommodation made will also bring to an end any statutory homeless duty and they shall be warned in writing of this consequence at the offer stage.
- 6.12 In certain areas of the County Borough where there is an issue of low demand, properties may be advertised for applicants who would under-occupy the accommodation. In this case Tai Tarian will carry out a detailed affordability assessment prior to letting the property and if affordability due to under-occupation is an issue the offer will not be made.
- 6.13 When placing a bid for a property the applicant should be mindful of the welfare benefit rules and should seek advice about the potential changes in benefit entitlement before they accept a tenancy.
- 6.14 An applicant can bid for a maximum of five properties from each Homes by Choice Advert. It is the responsibility of the applicant to submit their bid within the set timescales. However, with the agreement of applicants considered to be vulnerable, who cannot obtain internet access to enable them to bid, Tai Tarian will submit bids on their behalf. Also where considered necessary to do so, contact will be made with applicants who have bid during a bidding period, to establish if they wish Tai Tarian to bid on their behalf for other suitable properties during that bidding period.
- 6.15 Applicants should ensure that they only bid for properties that match their chosen area/s and property size criteria unless other categories have been included in the property advert as being applicable for their category. If they do not, their bid may be deemed ineligible. Unless Tai Tarian deem there are exceptional circumstances, an applicant's areas of choice, category or band cannot be changed during a Homes by Choice bidding period.
- 6.16 Where Tai Tarian considers that the property an applicant has bid for is unsuitable for any reason then the bid for that property shall not be accepted and applicant will be advised accordingly. The applicant has a right to request a review of the reasons for refusal of a bid (see **Appendix 9** on reviews).
- 6.17 Once an applicant has been matched to a property and an offer made and accepted they will not be eligible to bid for another property unless allowed to do so as a result of exceptional circumstances.

- 6.18 Applicants who are Tai Tarian tenants (transfer cases) assessed as having no housing need and not meeting the transfer criteria will not be allowed to bid unless Tai Tarian considers exceptional circumstances exist and it allows the applicant to bid.
- 6.19 An offer under the Homes by Choice Scheme will be made to the applicant in the greatest need as defined within the banding system in date order according to the size and type of accommodation that meets their household needs (subject to management discretion in **Section 7** to place an applicant into an appropriate band).
- 6.20 Tai Tarian reserves the right not to make or to withdraw an offer of accommodation.
- 6.21 Tai Tarian may review the decision to place an applicant in a particular band or category at any time (including after the applicant has bid for a property) and may amend its previous decisions on banding or category placements.

## **SECTION 7 – Allocations Outside Homes by Choice**

### **7.1 Decisions which can be made**

7.1.1 In the cases listed in **Section 7**, a decision may be made to either:-

- a) Make an offer of a specific property to the applicant outside of the Homes by Choice Scheme; or
- b) Award the applicant whatever banding priority is appropriate in the circumstances of the case. This can include either placing the applicant at the top of the awarded band or simply placing them into a band (in which case they will be considered in date order priority in the usual way); or
- c) Not to support a case or to defer/hold a case until further information is received.

7.1.2 Applicants awarded priority through management discretion under this section will be made one reasonable offer of accommodation only, taking into consideration the needs of the applicant. An unreasonable refusal of the offer will result in the preferences being removed and the applicant being returned to their original place on the Housing Register, subject to the criteria relating to refusal of offers.

7.1.3 Cases listed in **Sections 7.2 and 7.3** shall be considered outside the Homes by Choice Scheme by the appropriate Manager and/or the Deputy Director/Director of Housing. All other cases listed in **Section 7** shall be considered outside the Homes by Choice Scheme by the appropriate Team Leader. Also where appropriate, those cases which require multi service input may be considered by Tai Tarian appointed person/s.

### **7.2 Exceptional Circumstances**

7.2.1 In some cases due to vulnerability of the applicant or where their circumstances are of a sensitive nature then, either with the recommendation of a Tai Tarian Manager or Deputy Director, or equivalent Senior Officer from a specific agency, such as Housing Options/Social Services/Police/Probation Service/Health Authority; it may be decided by Tai Tarian that it is in the best interests of the individual and/or community that an allocation under this section shall be made.

7.2.2 The Council can request Tai Tarian to exercise this discretion regarding an applicant. If a request is made, Tai Tarian will give due consideration to the request but the decision on allocation rests with Tai Tarian.

### **7.3 Serious Offenders**

7.3.1 It may be necessary to provide housing to offenders to minimise the risk to the community and the applicant, where supervision of the individual can be

maintained. This may also apply to individuals currently living in the community who are considered to pose a risk to themselves **and/or** others, although they may not have been convicted of any offence.

7.3.2 We will work with the Police and Probation Services to assess and manage risk and will apply special arrangements where cases are referred through the Multi-Agency Public Protection Arrangements (MAPPA). A planned and managed re-location of offenders shall be agreed and shall include a full discussion on housing options, which are most appropriate to the applicant's circumstances and supervision needs.

7.3.3 The above may result in restrictions being placed upon the applicant in their choice of property **and/or** area. This may mean a direct allocation of suitable accommodation outside the Homes by Choice Scheme.

#### **7.4 No Demand for a Property**

7.4.1 Following an assessment of any applicants' details, and even though advertised to applicants who would under-occupy the accommodation, there may be occasions where although a property has been advertised through the Homes by Choice Scheme it does not attract any eligible 'bids'. When this occurs Tai Tarian will consider an expression of interest either directly from the Housing Options Team or from a potential applicant eligible for the Scheme. Only if there is no suitable applicant identified by the Housing Options Team within 24 hours, will expressions of interest from other applicants be considered. Such properties will be advertised and offered on a first come, first served basis.

#### **7.5 Request for Sole / Joint Tenancy**

7.5.1 At the request of the former joint tenant following the termination/surrender of the joint tenancy by one or both joint tenants, an allocation of a new sole tenancy may be made where that property is still appropriate to the needs of the household.

7.5.2 Where a sole tenant requests that a joint tenancy is created between that person and their partner and the property meets the needs of the household. Requests to create a joint tenancy with a family member will only be considered in exceptional circumstances.

7.5.3 Where a sole tenant requests that their tenancy is allocated to a person who resides with them as a new sole tenant, an allocation of a new sole tenancy may be made where the property meets the needs of the new household.

#### **7.6 Decanting Tenants**

7.6.1 Tai Tarian tenants may in certain circumstances be required to vacate their home in order that major works or re-development can take place.

- 7.6.2 If this causes the original home to no longer exist, or it is otherwise not possible to return the tenant to the original home, this will be dealt with as a permanent move to a new property on exceptional grounds. This may be considered as an allocation outside the scheme.
- 7.6.3 If the property is undergoing major refurbishment and the tenant is required to move out on a temporary basis to allow the works to take place, the decant will be temporary and as such will not be counted as an allocation under this scheme.
- 7.6.4 In exceptional circumstances a tenant whose property is undergoing major works and would return but requests a permanent move to a new property on exceptional grounds as identified. This may be considered as an allocation outside the scheme.

## 7.7 Termination of Tenancy

- 7.7.1 Where a tenant or joint tenants have given notice to quit their tenancy and then sought to withdraw that notice to quit and the withdrawal is agreed by Tai Tarian they may be dealt with under **Section 7** of the scheme.

## 7.8 Request for Succession of a Tenancy

- 7.8.1 Tai Tarian may decide to treat an applicant as a 'special case' where the following applies:-
- Where there would be a right for the applicant to succeed to a tenancy but that right has already been exercised (up to a maximum permitted number of 2).
  - Where the applicant has resided at their existing property for many years but they do not have a right to succeed under the Tenancy Agreement.
  - Where there has been a succession to the tenancy but the property is under-occupied and Tai Tarian wishes to make an offer of suitable alternative accommodation in accordance with the Tenancy Agreement provisions and Tai Tarian's procedure on succession.

## 7.9 Transfers

- 7.9.1 Consideration will be given to exceptional cases where tenants do not meet the transfer criteria as set out in **Section 8**.

## 7.10 Adapted Disabled Accommodation

- 7.10.1 Tai Tarian is committed to addressing the housing needs of disabled applicants and/or other disabled persons within the household who are primarily resident with the applicant but we have a limited stock of adapted accommodation to achieve this. Offers of adapted accommodation will

therefore be made outside the Homes by Choice Scheme after being identified as suitable for that applicant.

- 7.10.2 This will allow Tai Tarian to match an individual applicant's disability to the adaptations undertaken in the property, so as to allocate the limited stock in the best way.
- 7.10.3 Following the assessment of the application, where it is identified that the applicant has specific requirements for an adapted property then the applicant may be required to provide an assessment from an Occupational Therapist or other similar professional person, which details the requirements of the disabled person.
- 7.10.4 Tai Tarian will establish set criteria for assessing both the applicant and the property and retain a separate list of applicants suitable to be considered for adapted accommodation. (**Appendix 5**). Tai Tarian may, at any time, review the decision that the applicant requires adapted accommodation.
- 7.10.5 In such cases, under-occupation of a property may be accepted where the applicant is the person best matched to that particular property.
- 7.10.6 Applicants considered for adapted accommodation shall be offered a choice of areas when their application is assessed. To help them secure adapted accommodation they will be encouraged to broaden their choice of areas if at all possible. However they will only be offered a property where they have specified that area as one of their areas of choice. This may mean that some applicants will have to wait longer to be re-housed.
- 7.10.7 Once an offer has been made it will be subject to the same conditions afforded to offers through the Homes by Choice Scheme.
- 7.10.8 Applicants who are considered for adapted properties will still be eligible for the Homes by Choice Scheme but any bid for a property will be subject to the rules in **Section 6**.
- 7.10.9 To best meet the needs of disabled applicants Tai Tarian may share information with other housing providers who offer ADAPT or a similar service to identify suitable accommodation for the applicant. Applicants will be required to confirm an express consent to such sharing of their information with other providers when they submit an application.
- 7.10.10 If Tai Tarian is unable to allocate an adapted property via this section we will advertise and allocate the property through the Homes by Choice Scheme in accordance with **Section 6**.
- 7.10.11 Tai Tarian may, at any time (including after notification of the need for adapted accommodation review the decision (irrespective of whether or not new information is available) and may, where the review concludes that the earlier decision was incorrect, amend the decision. If Tai Tarian does so, it will



write to the applicant setting out its reasons for the change in the band or category.

## 7.11 Older Persons' Extra Care Housing

7.11.1 Older Persons' Extra Care Housing are properties for older people where additional support services are provided. Tai Tarian does not own or manage Older Persons' Extra Care Housing. Allocations and monitoring arrangements shall be in line with the nominations agreement for Older Persons' Extra Care Housing established between the Council and the appropriate RSL.

## 7.12 Supported Housing

7.12.1 Some properties will be designated as supported accommodation units which are suitable for applicants with identified support needs, with the support element provided either directly by Tai Tarian or by a third party agency according to the terms of the Personal Housing Plan for the applicant.

7.12.2 These supported accommodation units shall be either allocated through the Homes by Choice Scheme as suitable for Category S applicants (applicants who require supported accommodation) in accordance with the Lettings Policy, or be considered as an allocation outside the Homes by Choice Scheme as a direct allocation where there is an exceptional circumstance as determined in **Section 7** of the Lettings Policy.

## 7.13 Sensitive Lettings (individual properties)

7.13.1 An individual property may be a 'sensitive let' outside the Homes by Choice Scheme. This could be where there is a confirmed history of anti-social behaviour or criminal activity at that property involving the previous tenant or members of their household. A property will only be designated a sensitive let with the approval of a Tai Tarian appointed person and they will be considered on a case by case basis. If a property is a sensitive let, certain households shall not be considered for that property. Once the property has been let it will no longer be classed as a sensitive let. All sensitive lettings will be subject to monitoring in accordance with **Section 10**.

## SECTION 8 – Offers and Refusals

### 8.1 Offer of Accommodation

- 8.1.1 The applicant with the earliest date order within the appropriate advertised band shall normally be offered a suitable property. At the offer stage, applicants shall be reminded that rent in advance in accordance with the tenancy agreement is required should they accept the offer. This is subject to the proviso that successful bidders (for example those who get an offer of a property) shall only be made one offer per Homes by Choice period.
- 8.1.2 Once an applicant has received an offer of accommodation within a Homes by Choice period, they will not receive any further offers of accommodation within the same Homes by Choice period even if they are well positioned for other properties for which they may have bid.
- 8.1.3 Tai Tarian reserves the right not to make/to withdraw any offer or to offer applicants readily available properties in specific areas/properties which come within the remit of local lettings policies and sensitive lets, subject to any further investigations undertaken.
- 8.1.4 No offer shall be made to the following applicants:-
- Applicants who do not meet all eligibility criteria, have not provided all required evidence in support of their application and/or are not able to sustain a tenancy to the satisfaction of Tai Tarian. If an offer has already been made and such circumstances come to light, Tai Tarian reserve the right to withdraw the offer. In terms of being able to sustain a tenancy this includes those not deemed to have capacity to fulfil the terms of a tenancy or who have high support needs which would be best met by a form of supported accommodation.
  - An applicant who is deemed to not be able to afford the housing costs (also refer to **Section 5** - assessment of need and ability to pay).
  - An applicant with former tenant debt owed to Tai Tarian, which has not been repaid or where appropriate arrangements to repay have either not been made or, having been made have not been maintained.
  - Applicants who are already Tai Tarian tenants, who shall be subject to further requirements as detailed in **Section 8.2**.

### 8.2 Transfers

- 8.2.1 Tai Tarian tenants seeking a transfer can access the Housing Register but they shall not be offered a property unless they have a housing need and meet the transfer criteria. However, offers may be made where Tai Tarian deem there to be exceptional circumstances. The transfer criteria are:-
- Have occupied their current property for 12 months.
  - Existing property has to meet the interior and external standards acceptable to Tai Tarian.

- A clear rent account and no debt owed to Tai Tarian (unless supported due to bedroom tax or Tai Tarian deem there to be exceptional circumstances). If on occasion payments have been missed, the rent account must have been brought up to date soon after. Also refer to **Section 5** - assessment of need and ability to pay.
- A clear rent account must be established through an established payment plan, with any agreement only becoming valid when actual payments are made as per the agreement. Payments must be made to the satisfaction of Tai Tarian. An application shall not be made 'live' until payments as per the agreement are made.
- They have registered on Homeswapper.
- Any alleged anti-social behaviour or other tenancy breaches at the investigative stage have been fully considered and satisfactorily resolved. This requirement has to have been met before an assessment for a transfer can be finalised.

8.2.2 Tai Tarian will not hold open an offer whilst tenants seeking a transfer remedy a breach of their current tenancy agreement. However, Tai Tarian will facilitate the provision of a plan to provide the tenant with any help and support they need to remedy the breach. Until such a time the application shall not be 'live'.

### 8.3 Timescales for Considering Offers of Accommodation and Viewings

- 8.3.1 An applicant who is made an offer of accommodation has 2 working days within which to contact the specified person from Tai Tarian to arrange a viewing of the property. Every effort shall be made to initially make a verbal offer or make an offer using the applicants' preferred communication method.
- 8.3.2 This period of 2 working days shall start to run from midnight on the day after the offer of accommodation is made. The Council's Housing Options Team shall also receive notification for their cases via their generic e-mail address facility.
- 8.3.3 Following the viewing, a further 2 working days shall be given in which the applicant can either accept or refuse the offer. This period of 2 working days shall start to run from midnight on the day of the viewing of the property.
- 8.3.4 In exceptional circumstances, these timescales may be extended at the discretion of Tai Tarian, for example, when dealing with vulnerable clients, or for other exceptional reasons.
- 8.3.5 If after the period 2 working days referred to in **Section 8.3.3** (or such other period as may be agreed by Tai Tarian) the applicant has not accepted or rejected the offer, the applicant shall be deemed to have refused the offer. The offer of accommodation shall be withdrawn at this stage. Where there are exceptional circumstances the applicant's application may be held for 28 days prior to any cancellation.

## **8.4 Homeless Applicants**

- 8.4.1 In accordance with this policy, where the offer being made to the homeless applicant is a 'final offer' for the purpose of Section 75 of the HWA (or section 193(7) of the Housing Act 1996 for applications made before 27 April 2015) then the offer shall state that it is a final offer for the purpose of that section. Such an offer shall also inform the homeless applicant of the right to request a review of the suitability of that accommodation within a period of 21 days of the offer being made. A refusal to accept such an offer may result in the Council's duties to the homeless applicant under section 75 of the HWA 2014 being discharged pursuant to Section 76(3) (or its duties to the homeless Applicant under section 193(7) of the HA 1996 being discharged pursuant to section 193(7)).
- 8.4.2 Reference is made to the provisions in chapter 2 of the HWA regarding discharge of duties to homeless applicants under Section 76 of the HWA and regarding the statutory rights of homeless applicants to ask for a review of the suitability of accommodation offered to them, and also of the discharge of duties owed to them under Section 85. For applications made before 27 April 2015, reference is made to the provisions in Part 7 of the HA 1996 and to section 193.

## **8.5 Accepting an Offer of Accommodation**

- 8.5.1 Once an offer of accommodation has been accepted the applicant shall be removed from the Housing Register.
- 8.5.2 Should the applicant accept an offer and sign a tenancy agreement for the premises but then decide that they wish to terminate the tenancy, the applicant will be required to give at least 4 weeks' notice to end their tenancy and pay the rent that will be due. Discretion may be applied in exceptional circumstances. The applicant can request admission on the Housing Register as a new applicant, though the applicant's housing need shall be reassessed because it will be a new application.

## **8.6 Refusal of an Offer**

- 8.6.1 Applicants may only be provided with one suitable offer of accommodation through the Choice Based Letting Scheme. Where an applicant refuses (or is deemed to have refused) an offer of accommodation their application may be placed on the holding list for a period of 3, 6 or 12 months dependent upon their previous bidding history. Upon any such decision to place an application on the holding list, the applicant shall be re-assessed at the end of the held period and put into the appropriate band.
- 8.6.2 The Council's Housing Options Team will decide what further action shall be taken where applicants who are statutorily homeless refuse a final offer of suitable accommodation. This may involve a decision to discharge any further duty to assist an applicant under homelessness legislation and termination of their temporary accommodation where this has been provided.

## SECTION 9 – Nominating Individuals to Properties

- 9.1 The Council and Tai Tarian have agreed the nomination rights arrangements which apply when the Homes by Choice Scheme is not in operation or when Tai Tarian ceases to participate in such a scheme. The nomination rights arrangements are set out in Schedule 2 to the Transfer Agreement between the Council and Tai Tarian entered into (on or around 14 February 2011).
- 9.2 Agreements are in place with other RSLs operating in the County Borough that allows the Council's Housing Options Team to nominate individuals to an agreed percentage of the RSLs vacant dwellings.
- 9.3 The Council's nominations' entitlement is higher for certain schemes/developments. These are generally schemes/developments of a specialist nature such as extra care and where this is the case, they are subject to a scheme/development specific agreement. These shall be dealt with by way of separate nomination agreements independent from this policy between the Council and the relevant RSL.
- 9.4 Where a RSL has a new scheme/development in which the Council has a right to nominate to an agreed percentage of vacant dwellings according to the particular agreement, it will be advertised in accordance with the Homes by Choice Scheme, where applicants will be invited to submit a bid for that particular scheme/development.
- 9.5 Any person who wishes to be nominated to an RSL vacancy should indicate this when they apply for housing and identify the areas of the County Borough area where they would consider living.
- 9.6 All nominations requested on an 'ad hoc' basis shall be operated through the Housing Options Team to prevent homelessness and/or discharge its statutory duty to accepted homeless households. Should the Housing Options Team be unable to provide a suitable nominee, an eligible applicant on the Register operated in accordance with this policy shall be nominated.
- 9.7 An applicant who wishes to be nominated and then refuses a subsequent offer made by the RSL shall be subject to the same refusal rules which apply if they were offered a Tai Tarian' property (see **Section 8**).
- 9.8 The criteria for acceptance and priority for housing in this Lettings Policy apply solely to the letting of Tai Tarian accommodation. Other RSLs set their own criteria, which may be significantly different to this policy. In determining whether an offer of accommodation is to be made to an applicant nominated to an RSL, the RSL will have regard to its own Lettings Policy as set out in their nominations agreements with the Council.

## **SECTION 10 – Monitoring and Reviewing the Lettings Policy**

### **10.1 Monitoring of the Policy**

10.1.1 The implementation of this policy will be jointly monitored by the Council and Tai Tarian on a regular basis to ensure that it remains up to date and continues to meet the needs of individuals requiring accommodation in the County Borough, complies with current law and that it does not impact unfairly and disproportionately upon persons sharing any recognised characteristic.

10.1.2 Any information collected as part of the monitoring process will also be used by the Council as an “enabler” in the development of local housing strategy to provide wider re-housing opportunities. This will also assist Tai Tarian to identify potential development needs.

### **10.2 How Revisions to the Policy Will Be Managed**

10.2.1 This policy shall be reviewed periodically to reflect best practice principles and address any changes in legislation or legal decisions. The Council and Tai Tarian will hold a joint review of this policy at least every five years or sooner if requested by one of the parties in writing or where there are changes in legislation, regulations or Welsh Ministers' guidance which materially affects the operation of this policy. In the latter case, the parties may agree to review only those sections of this Policy affected by the changes in law, regulation or guidance.

10.2.2 It may also be necessary to make amendments to ensure that the policy is effective, efficient and that any procedures allow the policy to operate as envisaged. Any amendments shall be agreed by the Council and Tai Tarian before being implemented. They shall be documented in writing and made available on request.

10.2.3 Under s.167(7) of the HA 1996, before adopting or altering an existing Allocation Policy, the Council and Tai Tarian will:-

- Send a copy of the draft scheme, or proposed alteration, to every housing association with which they have nomination arrangements; and
- Ensure that those housing associations have a reasonable opportunity to comment on the proposals.

10.2.4 In order to ensure the effectiveness of this policy and compliance with the relevant equality duties the Council and Tai Tarian will periodically monitor information about who is applying for and being allocated social housing.

10.2.5 The Council and Tai Tarian will use this information as a basis for policy review and development and to help establish whether identified outcomes are in-line with this policy's objectives.

### 10.3 Termination

10.3.1 Should either the Council or Tai Tarian decide to withdraw from the Homes by Choice Scheme or this Lettings Policy then the Nomination Rights Agreement set out in Schedule 2 of the Transfer Agreement shall apply in its place.

## APPENDIX 1 - IMMIGRATION ELIGIBILITY

The following applicants are to be regarded as eligible regardless of their immigration status (though they may still be regarded as ineligible due to their previous “unreasonable behaviour” or other relevant circumstances):

- A Secure or Introductory tenant.
- An Assured Tenant of housing accommodation allocated by a Local Housing Authority.

Note. This will apply to secure occupational contracts under the RHWA when operational.

### Persons Subject to Immigration Control

Persons subject to immigration control, under the Asylum and Immigration Act 1996, are statutorily ineligible for an offer of accommodation unless they fall within the following 8 Categories prescribed by the Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014 (as amended by the Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) Regulations 2017, Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) Regulations 2019 and Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) (No 2) Regulations 2019).

- **Class A** – a person recorded by the Secretary of State as a refugee within the Convention relating to the Status of Refugees done at Geneva on 28<sup>th</sup> July 1951.

- **Class B** – a person:-

Who has been granted by the Secretary of State exceptional leave to enter or remain in the United Kingdom outside the provision of the immigration rules; and

Whose leave is not subject to a condition requiring them to maintain and accommodate themselves and any person who is dependent on them, without recourse to public funds.

- **Class C** – a person who has current leave to enter or remain in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland and whose leave to enter or remain in the United Kingdom is not subject to any limitation or condition **other than** a person:-

Who has been given leave to enter or remain in the United Kingdom upon an undertaking given by another person (that person’s “sponsor”) in writing in pursuance of the immigration rules to be responsible for that person’s maintenance and accommodation; and

Who has been resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland for less than five years beginning on the date of entry or the date on which the above mentioned undertaking was given in respect of that person, whichever date is the later; and

Whose sponsor or, where there is more than one sponsor, at least one of those sponsors, is still alive.



- **Class D** – a person who has humanitarian protection granted under the Immigration Rules.
- **Class F** - a person who is habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland and who has limited leave to enter the United Kingdom as a relevant Afghan citizen under paragraph 276BA1 of the Immigration Rules.
- **Class G** - a person who has limited leave to enter or remain in the United Kingdom on family or private life grounds under Article 8 of the Human Rights Convention, such leave granted under paragraph 276BE(1), paragraph 276DG or Appendix FM of the Immigration Rules, and who is not subject to a condition requiring that person to maintain and accommodate themselves, and any person who is dependent on that person, without recourse to public funds.
- **Class H** – a person who is habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland and who has been relocated to the United Kingdom under section 67 of the Immigration Act 2016 and has limited leave to remain under paragraph 352ZH of the immigration rules.
- **Class I** – a person who is habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland and has Calais Leave to remain under paragraph 352J of the immigration rules.

### **Persons not Subject to Immigration Control**

- A person who is not subject to immigration control is to be treated as a person from abroad who is ineligible for an allocation of housing accommodation under Part 6 of the 1996 Act if:-
  - (a) subject to paragraph (2) below, the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man, or the Republic of Ireland; or
  - (b) the person's only right to reside in the United Kingdom:-
    - (i) is derived from the person's status as a jobseeker or a family member of a jobseeker; or
    - (ii) is an initial right to reside for a period not exceeding three months under regulation 13 of the EEA Regulations; or
    - (iii) is a derivative right to reside to which the person is entitled under regulation 16(1) of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in regulation 16(5) of those Regulations; or

- (c) the person's only right to reside in the Channel Islands, the Isle of Man or the Republic of Ireland is a right equivalent to one of those mentioned in sub-paragraph (b)(i),(ii) or (iii); or
- (1) For the purposes of determining whether the only right to reside that a person has is of a kind mentioned in paragraph (1)(b) or (c), a right to reside by virtue of having been granted:-
  - (a) limited leave to enter or remain in the United Kingdom under the Immigration Act 1971 by virtue of Appendix EU to the immigration rules; or
  - (b) leave to enter the United Kingdom by virtue of an entry clearance that was granted under Appendix EU (Family Permit) to the immigration rules, is to be disregarded.
- (2) The following are not to be treated as persons from abroad who are ineligible for an allocation of housing accommodation pursuant to paragraph (1)(a):-
  - (a) a worker;
  - (b) a self-employed person;
  - (c) a person who is treated as a worker for the purpose of the definition of "qualified person" in regulation 6(1) of the EEA Regulations pursuant to regulation 5 of the Accession Regulations 2013 (right of residence of an accession State national subject to worker authorisation);
  - (d) a person who is the family member of a person specified in sub-paragraphs (a) – (c);
  - (e) a person with a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations; and
  - (f) a person who is in the United Kingdom as a result of the person's deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.
  - (g) a frontier worker; and
  - (h) a person who is a family member of a person specified in sub-paragraph (g); and has a right to reside by virtue of having been granted limited leave to enter or remain in the United Kingdom under the Immigration Act 1971 by virtue of Appendix EU to the immigration rules made under section 3 of that Act.

Also, changes to the immigration rules now effectively confer a derivative right to apply for housing for the primary carer of a British citizen (who will usually be a child) who is residing in the United Kingdom and where the denial of such a right of residence would prevent the British citizen from being able to reside in the United Kingdom.

## **Eligibility of EEA nationals**

Under The Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020, EEA nationals who resided lawfully in the UK up until 31 December 2020 will retain their existing eligibility under the Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014 (as amended) until 30 June 2021 (the 'grace period').

After 30 June 2021, EEA nationals who had resided lawfully in the UK up until 31 December 2020 and who:-

1. have applied to the EU Settlement Scheme and are waiting on a decision as to their status;
2. have pre-settled status under the EU Settlement Scheme; or
3. meet the definition of a frontier worker,

will be treated as 'persons not subject to immigration control', and their eligibility will be determined in accordance with Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014 (as amended).

After 30 June 2021, EEA nationals who had resided lawfully in the UK up until 31 December 2020 and who have settled status under the EU Settlement Scheme will be eligible.

Any other EEA national will only be eligible if they fall within another category of person subject to immigration control who are eligible.

## **The Habitual Residency Test**

Habitual residence is usually used to determine eligibility for certain social security benefits or housing assistance from a local authority.

The Habitual Residence Test (HRT) is a test to decide if an individual normally lives in the United Kingdom, the Channel Islands, the Republic of Ireland or the Isle of Man. You can be subject to the HRT if an individual has been absent from the UK and is applying for housing assistance from a local Authority or for benefits such as Pension Credit, Housing Benefit, or Council Tax Reduction Scheme. There is no legal definition of what habitual residence actually is, nor how long an individual may need to have been in the UK to establish habitual residence.

It can take a period of a few days up to six months to satisfy the HRT. A decision maker looks at how strong the individual's 'settled intention' to remain here is and assesses whether an 'appreciable period' of time has passed in making a decision about the HRT.

## **APPENDIX 2 - EXCLUSIONS/NO PRIORITY/ADJUSTED PRIORITY FOR UNACCEPTABLE BEHAVIOUR**

**Section 4.4** of the scheme sets out a summary of the grounds upon which an applicant may be excluded for unreasonable behaviour.

Under s.160A(7) of the HA 1996, a local authority may, where it is satisfied that an applicant (or a member of the applicant's household) is guilty of unacceptable behaviour serious enough to make him or her unsuitable to be a tenant of the local authority, decide to treat the applicant as ineligible for an allocation.

Even if we are satisfied that an applicant is unsuitable to be a tenant, instead of deciding that he or she is ineligible for an allocation, we may instead proceed with the application and decide to give the applicant no priority/adjusted priority for an allocation under Section 167(2B) so that the band that they are put into is lower than they would otherwise be entitled to.

Section 160A (8) of the HA 1996 provides that the only behaviour which can be regarded as unacceptable for these purposes is behaviour by the applicant or by a member of his or her household that would – if the applicant had been a secure tenant of the local authority at the time – have entitled the local authority to a possession order under s.84 of the Housing Act 1985 in relation to any of the discretionary grounds in Part 1 of Schedule 2, other than Ground 8. These are fault grounds and include behaviour such as non-payment of rent, breach of tenancy conditions, conduct likely to cause nuisance or annoyance, and use of the property for immoral or illegal purposes. It is not necessary for the applicant to have actually been a tenant of the local authority when the unacceptable behaviour occurred. The test is whether the behaviour would have entitled the local authority to a possession order if, whether actually or notionally, the applicant had been a secure tenant.

### **Test of Unacceptable Behaviour**

Where we have reason to believe that s.160A (7) of the HA 1996 may apply, we will apply a three stage test before deciding whether to use the power to decide that an applicant is ineligible for allocation or will be given no preference.

(i) **Is there evidence of unacceptable behaviour? Was it serious enough to have entitled an authority to obtain a possession order?**

We will need to be satisfied that there has been unacceptable behaviour which falls within the definition in s.160A (8) of the HA 1996. If a court has already made a possession order on one of the discretionary grounds, then we may accept that as evidence of unacceptable behaviour, and proceed to paragraphs (ii) and (iii) below.

Unacceptable behaviour may include the following (this list is non-exhaustive):-

- Non-payment of rent.
- Causing nuisance and annoyance to neighbours.
- Criminal convictions.
- Using a property for illegal or immoral purposes.
- Failing to conduct a tenancy in a satisfactory manner.

- Committing certain criminal offences in the locality of their home and still posing a threat to neighbours or the community.
- Being violent towards a partner or members of the family.
- Allowing the condition of the property to deteriorate beyond a level deemed acceptable by Tai Tarian Ltd.
- Obtaining a tenancy by deception, for example, by giving false information.
- Being subject to an anti-social behaviour injunction or order.
- Tenants who have had their tenancy demoted due to anti-social behaviour.

(ii) **Was the behaviour serious enough to render the applicant or a household member unsuitable to be a tenant?**

Having concluded that there would be entitlement to an order, we will need to satisfy ourselves that the behaviour is serious enough to make the person unsuitable to be a tenant. We need to satisfy ourselves that if a possession order were granted it would have been an outright order. Where we have reason to believe that the court would have suspended the order, then such behaviour should not normally be considered serious enough to make the applicant unsuitable to be a tenant.

Possession Orders are often suspended in rent arrears cases to give tenants an opportunity to clear the rent arrears

- (a) The arrears are relatively modest.
- (b) have been caused by delays in housing benefit/universal credit.
- (c) the tenant does not have a history of persistently defaulting on rent payments.
- (d) the applicant was not in control of the household's finances or was unaware that rent arrears were accruing or is being held liable for a partner's debts.
- (e) the local authority has failed to take steps or provide advice to help the tenant pay their rent.

Factors which may weigh in favour of exclusion are:-

- a) Failure to adhere to the terms of an agreed payment plan in relation to rent arrears or housing debt.
- b) A high level of arrears.

Similarly, courts are generally inclined to suspend a possession order in respect of anti-social behaviour where:-

- a) The allegations of nuisance are relatively minor.
- b) The nuisance was caused by a member of the household who has since left.
- c) The court is satisfied that the imposition of a suspended order will serve to control the tenant's future behaviour.

Examples of anti-social or criminal behaviour which could render an applicant unsuitable to be a tenant include:

- a) Conviction for illegal or immoral purpose.
- b) Causing a nuisance and annoyance to neighbours or visitors.
- c) Committing certain criminal offences in or near the home and still posing threat to neighbours or the community.
- d) Being violent towards a partner or members of the family.

(iii) **Is the behaviour unacceptable at the time of application?**

Finally, if satisfied that the applicant is unsuitable to be a tenant by reason of the unacceptable behaviour in question, we must have regard to the circumstances at the time the application is considered and must satisfy ourselves that the applicant is still unsuitable at the time of the application. Previous unacceptable behaviour or even an outright possession order, may not justify a decision to treat the applicant as ineligible where that behaviour can be shown by the applicant to have improved.

Only if satisfied on all three aspects, can we consider exercising our discretion to decide if the applicant is to be treated as ineligible for an allocation. In reaching our decision, we will act reasonably. That means we will consider each application on its own merits. We will have regard for each applicant's personal circumstances (and the personal circumstances of the applicant's household), including his or her health and medical needs, dependents and any other factors relevant to the application. We will have regards to information provided on the application form and supporting information.

If an applicant, who has, in the past, been deemed by us to be ineligible, now considers his/her unacceptable behaviour should no longer be held against him/her as a result of changed circumstances; he/she can make a fresh application. Unless there has been a considerable lapse of time it will be for the applicant to show that his/her circumstances or behaviour has changed. What constitutes a considerable lapse of time will depend upon the individual circumstances of the case and in particular the nature of the unacceptable behaviour. Some applicants may find this process difficult and should be referred to an independent source of housing advice such as Shelter Cymru.

**Unacceptable Behaviour – Ineligible or No Priority/Adjusted Priority for an Allocation?**

There is no obligation on us to treat an applicant as ineligible for an allocation (s.160A (7) of the HA 1996) due to an applicant's or household member's behaviour. If we do apply the unacceptable behaviour standard and a person is deemed unsuitable to be a tenant, we may treat them as eligible but reduce the priority that is given to their housing application. By virtue of s.167(2B) and (2C) of the HA 1996, an allocation scheme may provide that no preference is given to an applicant where the local authority is satisfied that he/she, or a member of his/her household has been guilty of unacceptable behaviour serious enough to make him/her unsuitable to be a tenant and the local authority is satisfied that, in the circumstances at the time the case is considered, he/she deserves not to be treated as a person who should be given reasonable preference.

By virtue of s.167(2D) of the HA 1996, the same provisions apply for determining what is unacceptable behaviour for the purposes of deciding whether to give preference to an applicant, as apply to a decision on eligibility (s.160A(8) HA 1996).

Hence, in cases where the grounds for exclusion are made out, we will consider whether it would be appropriate to give no priority or adjusted priority to the applicant as an alternative to excluding them. If we decide to give no priority or adjusted priority then this will result in the applicant being put into a lower band than would otherwise be the case.

### **Unacceptable Behaviour and Discharge of Duties to People Who Are Statutorily Homeless**

It is possible for us where the Council has determined an applicant to be unintentionally homeless and in priority need, to determine also that they are guilty of unacceptable behaviour serious enough to make them unsuitable to be a tenant and decide:-

- To treat them as ineligible for an allocation (s.160A(7) of the HA 1996)
- To not afford them any priority for rehousing under their allocation scheme (s.167 (2B and 2C) HA 1996).
- that they are not eligible to apply under the Homes by Choice Scheme but instead consider them only for an offer of specific premises outside of Homes by Choice
- that they are eligible and entitled to bid for any accommodation they are entitled to bid for under the Scheme

It should be noted however that the Council will still have a statutory duty to secure accommodation for such persons though this need not be through a statutory allocation (see Section 159 of the HA 1996) under its allocation scheme. In such cases, the Council has the discretion to accommodate such persons in the private sector or by some other means.

In such cases where the Council's Housing Options Team owes a duty to the applicant to secure them accommodation under Section 75 of the HWA but a decision is being considered to exclude the applicant from the scheme or to give them no/adjusted preference due to unacceptable behaviour then the Housing Options Team will be notified of this and given the opportunity to provide comments/submissions within a reasonable period. A Tai Tarian appointed person considering the case will have regard to any representations made by the Housing Options Team representative.

If a Tai Tarian appointed person comes to a decision to exclude the applicant from the scheme or to give them no/adjusted preference due to unacceptable behaviour then as well as sending the decision to the applicant they will notify the Council's Housing Options Team of that decision, together with the reasons for it. Should an application for a review be put in by the applicant (**see Appendix 9** on Reviews) then a review will be undertaken by a Tai Tarian appointed person and a representative from the Housing Options Team. The decision on the review though will be that for the Tai Tarian representative alone though they will have regards to any representations made by the Housing Options Team representative. See **Appendix 9** for full details of the review procedures.

If there are grounds to exclude a homeless applicant who is owed a duty under Chapter 2 of the HWA (or Part 7 of the HA 1996 for applications made before 27 April 2015) to be

secured accommodation by the Council's Housing Options Team then a Tai Tarian appointed person could decide that they are not eligible to apply under the Homes by Choice Scheme but instead consider them only for an offer of specific premises outside of Homes by Choice. The applicant will have the same right to ask for a review of such a decision as they would for a decision to completely exclude them from the scheme or to award them no/adjusted preference.

## **Procedures for Exclusions and the Awarding of No/Adjusted Preference**

Where an application discloses information which could potentially give rise to a decision that the applicant may:-

- Be excluded.
- Given no/adjusted priority.
- Disallowed to bid under Homes by Choice and only considered for offers of specific premises.

Due to unacceptable behaviour then a Tai Tarian appointed person dealing with the application shall request from the applicant whatever information and documentation which is necessary to obtain all relevant facts relating to the behaviour in question.

- a) **Housing related debt** – the applicant may be requested to provide copies of any court orders, rent account details, contact details for the previous landlord to establish the background to the accrual of the arrears. The applicant may be asked to explain how the arrears arose and to put forward any mitigation for the accrual of the arrears. If the applicant asserts that they have cleared the debts then they may be asked to provide proof of that.
- b) **Anti-social behaviour/criminal conviction** – the applicant may be requested to provide copies of any court orders, proof of any convictions, mitigation for the behaviour in question, probation reports, reports from other agencies, etc. A Tai Tarian appointed person will work with the Police, probation services and other statutory and voluntary agencies in sharing information on sex offenders or other violent applicants and, where appropriate, become involved in the management of the risk posed by them.
- c) **Other tenancy breaches/behaviour** – the applicant may be requested to provide documentation regarding the breaches of tenancy in question and invited to provide any explanation or mitigation of those breaches. This could include, for instance:-
  - Allowing the condition of the property to deteriorate.
  - Allowing any furniture provided by the landlord to deteriorate due to ill treatment.
  - Obtaining a tenancy by deception, for example by giving false information.

A Tai Tarian appointed person should avoid unreasonably long delays in processing applications due to having to wait lengthy periods for the production of documentation in connection with the assessment of whether to exclude them.

If a Tai Tarian appointed person considers that there are grounds for excluding the applicant or awarding no/adjusted priority then they will put the application forward with a report setting



out all relevant facts and appending all relevant documentation. Where the applicant is owed a duty by the Council to be secured accommodation under chapter 2 of the HWA then a Tai Tarian appointed person will also notify the Council's Housing Options Team of the intention to consider exclusion and/or awarding no/adjusted priority. A Tai Tarian appointed person will consider the report and request any further documentation that they may need. A Tai Tarian appointed person will consider whether the grounds for exclusion are made out. If they are, then a Tai Tarian appointed person will decide if it's appropriate to exclude the applicant or to remove the preference that they would otherwise be entitled to.

If the decision is to exclude the applicant or remove their preference then a Tai Tarian appointed person will draw up a written decision and issue it to the applicant. Where the applicant is owed a duty by the Council under chapter 2 of the HWA a Tai Tarian appointed person will have regard to any representations made by the Housing Options Team on the applicant's behalf. Any such written decision will set out the full reasons why the applicant has been excluded or had their preference removed, together with what facts a Tai Tarian appointed person had regards to in coming to that decision.

For such a decision Tai Tarian will notify the applicant of their right to ask for a review of the decision and of any facts - see **Appendix 9** on reviews. Where we believe that an applicant may have difficulty in understanding the implications of a decision of ineligibility, arrangements will be made for the information to be explained in person.

In cases where the notification cannot be sent to the applicant or we believe that it may not have been received by him or her, we will make available at our office a written statement of our decision, and the reasons for it, to enable the applicant, or someone who represents the applicant, to collect within a reasonable period.

## APPENDIX 3 - DETAILED CRITERIA FOR EACH OF THE BANDS COMPRISING THE SCHEME

*Note:*

- *The bands are to be considered in conjunction with other relevant sections of the policy, including eligibility for the Register;*
- *Sub categories for all bands will only apply where the applicants' circumstances would be significantly improved by moving to suitable accommodation;*
- *Lists within bands are not exhaustive and some circumstances may not be covered but are relevant for consideration.*

<b>URGENT BAND – URGENT PRIORITY (REASONABLE PREFERENCE PLUS ADDITIONAL PREFERENCE)</b>	
<b>Sub Categories of Band</b>	<b>Examples of Qualifying Circumstances / Summary of Criteria</b>
<p><b>Homeless applicants where the Council has an interim duty under Section 68 of the HWA to secure accommodation in priority need.</b></p> <p><b>Applicants in temporary accommodation under Section 68 HWA and who are owed a duty by the Council under either Section 73 HWA (duty to help secure accommodation for homeless applicants) or Section 75 HWA (duty to secure accommodation for applicants in priority need following the end of a duty under Section 73)</b></p>	<p>Applicants who have been accepted by the Council as being entitled to temporary accommodation under Section 68 of the HWA.</p> <p>Applicants living in temporary accommodation arranged by the Council to meet its duty under Section 68 of the HWA <b>and</b> where the Council has accepted a duty under either Section 73 or Section 75 of the HWA.</p> <p>Temporary accommodation is any accommodation identified by the Council for an applicant to discharge its duty under Section 68 and which includes refuge accommodation.</p>
<b>MARAC CASES</b>	<p>At risk applicants who are subject to a MARAC (Multi Agency Risk Assessment Conference) which supports an urgent move to suitable accommodation in specified areas. The move will not be within the same area unless it is with the agreement of the Council's Housing Options Team and/or MARAC Co-ordinator. This will be as part of an agreed safety plan for high risk victims who will be eligible for additional preference and will be placed in the Urgent Band. Move-on</p>

	<p>requirements from refuge accommodation will be considered by a Tai Tarian appointed person.</p>
<p><b>WELFARE CASE URGENT-</b> Deemed to have a very high social circumstance that is seriously affected by current housing</p>	<p>Examples of applicants who will fall within this Category are below:</p> <ul style="list-style-type: none"> <li>• Where the applicant is the main carer and needs to give constant care and support to a person with an Urgent health need (the nature of which comes within an Urgent band for health) but this is difficult to do at present because: <ul style="list-style-type: none"> <li>(i) Applicant lives too far away, or</li> <li>(j) There is extreme financial hardship for the applicant providing the care and support</li> </ul> </li> <li>• Applicant or member of household has received or is threatened with serious physical/sexual, racial or homophobic/transphobic abuse and needs to move away from the locality.</li> <li>• Witnesses of crime or victims of crime who are deemed by the Police to be at risk of intimidation or violence. (Note: Not applicable to applicants who go through homeless route).</li> <li>• It has been established that a serious threat to the well-being, education or safeguarding of a child exists and that their accommodation is a contributory factor to the risk. These are cases where Social Services can confirm that there is an urgent need to move to mitigate the risk to the child. This includes foster carers needing larger home, confirmed by Social Services.</li> </ul> <p>The above list is not exhaustive and some circumstances may not be covered but are relevant for consideration as a social/welfare need. Supporting evidence and/or a multi-agency approach to addressing the need is required. The decision on any such award to be at the discretion of a Tai Tarian appointed person considering the application. If an applicant bids for a property that would not achieve the objective of the social/welfare need award that has been given then we may remove the priority awarded under this category for that bid.</p>
<p><b>HEALTH CASE URGENT –</b> Deemed to have severe health needs. Health is seriously affected by their current housing making existing accommodation unsuitable – e.g. hospital discharge, currently receiving palliative care, has a life limiting</p>	<p>This applies where the applicant and/or members of their household have a severe health need, examples of which are below:</p> <ul style="list-style-type: none"> <li>• Where the applicant with an Urgent health need (the nature of which comes within an Urgent band for health) is ready for discharge from hospital and either of the following apply:</li> </ul>

condition, health is so severely affected by the accommodation that it is likely to become life threatening, disabled and assessed as requiring major works of adaptation, overcrowding resulting in a risk of a life threatening infection

(i) Applicant has somewhere to live but it is deemed unsuitable for their needs and cannot be made suitable through adaptations due to cost, structural difficulties or the property cannot be adapted within a reasonable amount of time, or

(ii) Applicant has nowhere at all to live and all other reasonable housing options have been explored.

- Is currently receiving palliative care and urgently requires rehousing to facilitate the on-going provision of this care.
- Has a life limiting condition and their current accommodation is affecting their ability to retain independence or enable adequate care.
- Health is so severely affected by the accommodation that it is likely to become life threatening, e.g. applicant has severe mental health/learning disability problems that are significantly exacerbated by their accommodation.
- Is disabled and has been assessed as requiring major works of adaptation. As a direct result of the limitations posed by the current property they are unable to carry out day-to-day activities or have difficulty in accessing facilities inside or outside their home. The award of additional preference will not be made where it has been assessed that rehousing would not facilitate a reduction in the limitations identified.
- A Tai Tarian tenant living in accommodation assessed by Tai Tarian as being adapted, who no longer requires the adaptations in their current home, may be supported as an Urgent case for a transfer where Tai Tarian has identified a suitable applicant for the accommodation they are currently living in. This award may still be valid if the applicant requires adaptations, provided that the adaptations required are substantially different from those in their current home as assessed by Tai Tarian.
- Overcrowding in their current property leaves them at risk of a life threatening infection, e.g. is suffering from a late-stage or advanced infection.
- Is elderly, disabled (including a severe mental health or learning disability) and has a progressive illness resulting in them likely to require admission to hospital or residential /nursing care in the immediate future and re-housing would enable them to remain at home.
- Need to receive constant care and support due to being an urgent health case and transport is a problem or moving away from a community would cause hardship in receiving support.

The award of priority under this section is always subject to the proviso that if an applicant 'bids' for a property that would not benefit the reason why the priority was awarded then the

	<p>priority will be removed for the purpose of considering the bid for that particular property.</p>
<p><b>ARMED FORCES SERVICE PERSONNEL</b> – who have been seriously injured or disabled in action and who have an urgent need for social housing</p>	<ul style="list-style-type: none"> <li>• This applies to any applicant who needs to move to suitable adapted accommodation because of a serious injury, medical condition or disability which he or she, or a member of their household, has sustained as a result of service in the Armed Forces.</li> </ul>
<p><b>EXISTING TAI TARIAN TENANTS WHO ARE UNDER-OCCUPYING</b> – and are prepared to downsize to a property with fewer bedrooms and who are suffering financial hardship</p>	<ul style="list-style-type: none"> <li>• This applies to an existing Tai Tarian tenant who is under-occupying a social rented property and is prepared to downsize to a property with fewer bedrooms, which is suitable for their needs, but only if they are suffering extreme financial hardship due to Welfare Reform. This involves a shortfall in Housing Benefit or Universal Credit Housing Contribution due to Welfare Reform changes such as Bedroom Tax, Benefit Cap or Local Housing Allowance. As a guide this equates to a 25% shortfall. An affordability assessment is undertaken in these cases.</li> </ul>
<p><b>HOUSING CONDITIONS URGENT</b> – Housing situation seriously unsuitable with no prospect of the issue being remedied in a reasonable period of time</p>	<ul style="list-style-type: none"> <li>• Cases which have highly exceptional and significant circumstances. Where the housing situation has been assessed by the Council's Environmental Health as being seriously unsuitable because (a) The property has been deemed as being at a high risk of causing harm and (b) The applicant has severe health issues which are seriously affected by their current housing. Applicants who have contributed to the housing conditions will not be considered in this band.</li> </ul>
<p><b>EXCEPTIONAL CIRCUMSTANCES</b> – Management Discretion</p>	<ul style="list-style-type: none"> <li>• This will include cases which have highly exceptional and significant circumstances, where an applicant needs to move urgently and the only way to expedite a move is through the use of management discretion.</li> </ul>

<b>GOLD BAND – HIGH HOUSING NEED REASONABLE PREFERENCE</b>	
<b>Sub Categories of Band</b>	<b>Examples of Qualifying Circumstances / Summary of Criteria</b>
<p><b>HOMELESS/THREATENED WITH HOMELESSNESS CASES (OTHER THAN APPLICANTS WHO FALL WITHIN THE URGENT BAND)</b></p> <p><b>Section 66 of the HWA (those where the Council has a duty to help prevent an applicant from becoming homeless)</b></p> <p><b>Section 73 (those where the Council has a duty to secure accommodation)</b></p> <p><b>Section 75 (those where the Council has a duty to secure accommodation for applicants in priority need when the section 73 duty ends)</b></p>	<p>Applicants who are not residing in temporary accommodation arranged by the Council to meet its duties under Section 68 of the HWA but where the Council has accepted a duty under either Section 73 or 75 of the HWA.</p> <p>Applicants who are owed a duty by the Council under Section 66 of the HWA</p>
<p><b>WELFARE CASE HIGH – MOVING HOME WILL BENEFIT APPLICANT (deemed to have a serious social circumstance)</b></p>	<p>Examples of applicants who will be given reasonable preference under this category are:-</p> <ul style="list-style-type: none"> <li>• Victims of harassment through antisocial behaviour – evidence of ongoing and targeted harassment.</li> <li>• Victims who need to move due to violence or harassment and where legal action is pursued. Also it will have been assessed and confirmed by the relevant agencies that they are not in any immediate danger but their housing circumstances would be significantly improved by moving to suitable accommodation in specified areas.</li> <li>• This band may be awarded where the applicant is at least one of the main carers and needs to give regular care and support to a person with serious health ailments or disability (the nature of which comes within a Gold Band for health) but this is difficult to do at present because: <ul style="list-style-type: none"> <li>(i) Applicant lives too far away, or</li> </ul> </li> </ul>

(ii) There is extreme financial hardship for the applicant providing the care and support. To receive this, the person the applicant is caring for has to be in receipt of Attendance Allowance, the care component of Disability Living Allowance or the daily living component of the Personal Independence Payment, and they spend at least 35 hours per week with them.

- Applicants leaving supported housing where after a review of support plan by support provider, they recommend a move to independent accommodation including young people at risk and care leavers.
- Currently residing in a supported housing scheme funded via Welsh Government programme funding for supported housing. The relevant band will only be awarded where the support provider has identified the need to move-on following a review of the applicant's support plan. This will not include floating support or Haven Housing Schemes.

*In both of the above instances for supported housing, the support provider makes a recommendation to the Move-on Panel, who is required to approve the move. Move-on requirements from other forms of accommodation which do not come within the remit of "supported housing" will be considered by a Tai Tarian appointed person.*

- There are children that are part of the application, who need to move and their accommodation has been assessed by Social Services as being a contributory factor to the risk of the child. The award will only be made where:
  - (i) There is a child protection plan in place; and
  - (ii) A report from the child's social worker supports the need to move, with rehousing being an important factor to the ongoing welfare of the child. The report will need to be countersigned by the relevant Social Services team manager.
- This band applies to applicants which come under the provisions of the Rent (Agriculture) Act 1976, where a displaced Agricultural worker requires assistance with accommodation.

The above list is not exhaustive and some circumstances may not be covered but are relevant for consideration of a social/welfare need. The decision on any such award to be at the discretion of a Tai Tarian appointed person considering the application.

If an applicant bids for a property that would not achieve the objective of the social need award that has been given then

	<p>we may remove the priority awarded under this category for that bid.</p>
<p><b>HEALTH CASE HIGH – MOVING HOME WILL BENEFIT APPLICANT</b> (deemed to have serious health ailments or disability)</p>	<p>Reasonable preference will be awarded to applicants <b>and/or</b> members of their household because housing is unsuitable due to serious health ailments or disability, but who are not housebound, or whose health, or safety is not at such a risk level to require immediate urgent housing. The serious health ailment(s) would be significantly improved by moving to suitable accommodation.</p> <p>Examples of applicants who will fall within this Category are below:</p> <ul style="list-style-type: none"> <li>• Need to receive regular care and support due to being a Gold health case and transport is a problem or moving away from a community would cause hardship in receiving regular support.</li> <li>• Receiving regular health treatment /care, which is difficult to access.</li> <li>• Is disabled and has been assessed as requiring works of adaptation. As a direct result of the limitations posed by the current property they are unable to carry out day-to-day activities or have difficulty in accessing facilities inside or outside their home. The award of additional preference will not be made where it has been assessed that rehousing would not facilitate a reduction in the limitations identified.</li> <li>• A person whose disability means that re-housing would enable them to overcome physical barriers created by their current accommodation e.g. stairs and steps.</li> <li>• A person with a terminal illness or long term medical debilitating condition whose current accommodation is not having a significant impact on their condition but where their quality of life would be significantly improved by moving to alternative settled accommodation which may or may not be closer to support.</li> </ul> <p>The award of priority under this section is always subject to the proviso that if an applicant ‘bids’ for a property that would not benefit the reason why the priority was awarded, then the priority will be removed for the purpose of considering the bid for that particular property.</p>
<p><b>EXISTING TAI TARIAN TENANTS WHO ARE UNDER-OCCUPYING</b></p>	<ul style="list-style-type: none"> <li>• This applies to an existing Tai Tarian tenant who is under-occupying a property and is prepared to downsize to a property with fewer bedrooms, which is suitable for their needs, but only if they are suffering severe financial hardship due to Welfare Reform. This involves a shortfall in Housing Benefit or Universal Credit Housing Contribution such as Bedroom Tax or Benefit Cap. As a</li> </ul>



	<p>guide this equates to a 14% shortfall. An affordability assessment will be undertaken in these cases.</p> <ul style="list-style-type: none"> <li>• This includes an existing Tai Tarian tenant wishing to downsize from 2, 3, 4 or 4+ bed family accommodation, which will free up a property which meets the needs as deemed by Tai Tarian of another applicant.</li> </ul>
<p><b>ACUTE OVERCROWDING – as defined by the ‘bedroom standard’</b></p>	<p>We are satisfied the applicant is overcrowding their current accommodation by 2 or more bedrooms (see Bedroom Standard Section of <b>Appendix 3</b>). Applicants who have contributed to the overcrowding will not be considered in this band.</p>
<p><b>HOUSING CONDITIONS HIGH – insanitary, or unsatisfactory housing conditions</b></p>	<p><b>INSANITARY</b> - Where the property has been assessed by the Council's Environmental Health as either filthy or so contaminated <b>or</b> seriously infested by pests, so as to give rise to an imminent risk of serious harm AND these matters cannot be rectified while the property is being occupied. Applicants who have contributed to the housing conditions will not be considered in this band.</p> <p><b>UNSATISFACTORY –</b> Where the property is:</p> <p>(a) Inadequate by virtue that its condition does not protect the applicant from an imminent risk of serious harm AND these matters cannot be rectified while the property is being occupied. This includes properties where any of the following basic facilities and provisions are absent:</p> <ul style="list-style-type: none"> <li>• Internal WC</li> <li>• Internal bath or shower</li> <li>• Cooking provisions</li> <li>• A supply of cold or hot water</li> <li>• Room heating to habitable rooms</li> <li>• Natural or artificial lighting</li> <li>• Appropriate fire detection and a suitable means of escape in high risk properties (e.g. houses in multiple occupation)</li> </ul> <p>(b) Subject to a Demolition or Compulsory Purchase Order.</p> <p>(c) Suffering from severe dampness (excluding condensation caused by the occupancy of the property) which prevents the habitable rooms from being occupied.</p>

## SILVER BAND –MEDIUM HOUSING NEED

<p><b>OTHER HOMELESS / THREATENED WITH HOMELESSNESS APPLICANTS -</b></p> <p>Homeless and threatened with homelessness applicants who are not owed duties under sections 66, 68, 73 or 75 of the Housing (Wales) Act 2014.</p>	<p>Applicants who are threatened with homelessness but who are not owed duties under section 66 to prevent them from becoming homeless. This could be because they are not eligible for help.</p> <p>Applicants who the Council has reason to believe are homeless or who the Council has decided are homeless but are not owed duties under sections 68, 73 or 75. This could be, for instance, because the applicant does not have priority need, because they are not eligible for assistance, because they have been found to be intentionally homeless, etc.</p>
<p><b>SHARING FACILITIES</b> (not for applicants that have left the family home)</p>	<p>This category applies where an applicant is deemed to be sharing all of the following rooms with another household:</p> <ul style="list-style-type: none"> <li>• Living Room</li> <li>• Kitchen</li> <li>• Bathroom</li> <li>• WC</li> </ul> <p>Applicants who have never left the family home will not be considered to be sharing, unless there is evidence to suggest a newly forming household.</p>
<p><b>APPLICANTS LACKING A BEDROOM –</b> having regard to the ‘bedroom standard’</p>	<p>The ‘bedroom standard’ is defined in below. This applies to applicants overcrowded by 1 bedroom according to the ‘bedroom standard’ for overcrowding (see below), <b>unless</b> the accommodation they have applied for would have the same number of bedrooms as their current accommodation.</p>
<p><b>WELFARE CASE MEDIUM -</b> Deemed to have a minor social circumstance</p>	<p>This category applies where an applicant and/or members of their household are deemed to have a minor social circumstance that is affected by current housing and which would be improved by moving to suitable accommodation.</p> <p>This category applies for instance to:</p> <p>Applicants experiencing difficulty in accessing employment or education, or other services where there is a need to move to avoid hardship by being able to:</p> <p>(i) Overcome barriers to employment and education due to severe mental health issues, long term unemployment, caring responsibilities, physical ill health, criminal record and substance misuse. In recognition of the multiple problems which can stop</p>

	<p>individuals finding work, they will be receiving ongoing extra help from government funds (costs related to parents with young children and carers etc.) or</p> <p>(ii) Take up or be near specific work, or training or job opportunities not available elsewhere in the county borough. Applicants will only be considered for this award where they do not live within a reasonable commuting distance of their place of current or prospective employment, taking into consideration their ability to use and the availability of public/private transport. Evidence is required that the difficulties being experienced are greater than those commonly experienced by others across the county borough. The applicant will be required to provide confirmation of employment details from their employer or enrolment on a training course from the training provider.</p>
<p><b>HEALTH CASE MEDIUM – MOVING HOME WILL BENEFIT APPLICANT</b> (deemed to have a minor ailment)</p>	<p>Will be awarded to applicants under this category where the applicant <b>and/or</b> members of their household have a minor health ailment that would be improved by moving to suitable accommodation.</p>
<p><b>HOUSING CONDITIONS MEDIUM -</b> Unsatisfactory/Disrepair</p>	<p>Where the property has been assessed by the Council's Environmental Health that it does not pose an imminent risk to the health or safety of the applicant, but there are unsatisfactory conditions or disrepair caused by the lack of upkeep or maintenance of the property.</p> <p>This category applies for instance to:</p> <p>The current accommodation directly exacerbates a recognised medical condition, is the direct cause of a medical condition or impacts on the ease of use of the facilities within their home for a disabled person. The award of this band will only be made where it has been assessed that rehousing would facilitate an improvement in wellbeing, taking into consideration all relevant supporting information.</p> <p>This band will not be used where there is evidence alleging any damage, unsatisfactory conditions or disrepair was caused by the applicant, current occupiers or visitors to the property.</p>

## BRONZE BAND – LOW/NO HOUSING NEED

<b>ANY APPLICANT</b> that does not fall within Urgent, Gold or Silver bands.	Includes any applicant who does not fall into bands Urgent Gold or Silver above
<b>APPLICANTS</b> who do not have a local connection as detailed in <b>Section 4.11</b>	This covers applicants who do not have a 'local connection' with the County Borough within the meaning of this policy.

### The Bedroom Standard

For the purpose of this scheme it is recognised that persons considered for sharing a room must be family members. Therefore two persons (who are not in the same family) in a relationship are considered as requiring their own bedroom and should not share that room with any other person. The table below shows the bedroom entitlement for adults and children according to the Bedroom Standard

#### Bedroom Standard:

	NUMBER OF BEDROOMS	
<b>HOUSEHOLD MEMBERS</b>	1	2
Single adults over 21	x	
Couple (married or cohabitating) wishing to live together	x	
Single person/couple who are supported for an additional bedroom		x
20 x weeks pregnant woman with or without partner and no other children		x
One child	x	
Two children under 10 regardless of sex	x	
Two children of the same sex aged between 0 and 21	x	
Two children of different sex aged between 10 and 21		x

## **APPENDIX 4 - PROPERTY SIZE AND TYPE ELIGIBILITY**

### **4.1 Property Size Criteria**

- 4.1.1 The following matching process will be used to assess an applicant's bedroom requirements.
- 4.1.2 The following table shows the size and type of property that applicants may be considered for based on their household size either when submitting a bid for an advertised property or for a direct allocation outside the Homes by Choice Scheme.
- 4.1.3 All properties advertised through the Homes by Choice Scheme will display the Band Applicants have to be included in and details of the household type and size who are eligible to bid for each property. Consideration will be given to including maximum occupancy levels for advertised properties.
- 4.1.4 Applicants will be expected to only bid for properties which suit their household size. However, a Tai Tarian appointed person may re-classify an applicant as requiring a higher number of bedrooms where the applicant has overnight access to or access rights to a child/children. See **Section 4.6** below.
- 4.1.5 Where there is low demand for certain accommodation Tai Tarian may decide to advertise a property for an applicant who would under-occupy the property. If this is the case the issue of affordability will be considered prior to any offer of accommodation.

### **4.2 Pregnant Women**

- 4.2.1 The expected child will only be added to the application from week 20 of the pregnancy, once the MAT B1 has been received. It is the responsibility of the applicant to provide this information.
- 4.2.2 The applicant must provide proof of pregnancy before the expected child is added to the application.

### **4.3 Access to Children**

- 4.3.1 Single applicants or couples, who do not have children living with them on a full time basis but who have access to a child/children will qualify for two bedroom accommodation, providing they supply written evidence that the child/children stay overnight at least two nights a week, or the average overnight stay equals this.
- 4.3.2 Written evidence to confirm the above must be provided and can include a letter from the partner who the child/children normally live with, a solicitor, Social Services or Court Order detailing access arrangements.

- 4.3.3 Applicants who would under-occupy the property based on the welfare reform rules will have an affordability assessment carried out to confirm that they can afford to occupy the property. This may be done at the point of application **and/or** at the point of offer.
- 4.3.4 If an applicant is unable to demonstrate they can afford the property, they will only be eligible to bid for one bedroom accommodation, unless there is a change in their circumstances. It is the responsibility of the applicant to update Tai Tarian of any change in circumstances that would affect this decision.
- 4.3.5 Where an applicant already has children in their household but also has access to other children, then they may be entitled to a further bedroom/bedrooms under **Section 4.6** below.

#### 4.4 **Applicants with Children**

- 4.4.1 With the introduction of welfare reform the rules on bedroom use has changed so that applicants with two children may be deemed to under-occupy three bedroom accommodation for Housing Benefit/Universal Credit housing cost purposes. The exception to this may be approved foster carers.
- 4.4.2 Due to this Tai Tarian has decided to offer flexibility in the size of accommodation an applicant with children may be eligible for. The property size table demonstrates that applicants with children may elect to be considered for two, three or four bedroom accommodation depending on their circumstances.
- 4.4.3 Where an applicant with children subject to Housing Benefit/Universal Credit elects to be considered for accommodation, which would result in a reduction in Housing Benefit/Universal Credit housing costs then an affordability assessment, will be required from the point of application to ensure they can afford to occupy the property.
- 4.4.4 If an applicant is unable to demonstrate they can afford the property, they will only be eligible to bid for properties in line with the welfare reform rules, unless there is a change in their circumstances. It is the responsibility of the applicant to update Tai Tarian of any change in circumstances that would affect this decision.

#### 4.5 **Older Persons' Accommodation**

- 4.5.1 Some properties will be suitable for older persons and will be advertised with an age restriction on those applicants eligible to bid for the property.
- 4.5.2 Older persons' accommodation will be offered to applicants aged over 55 years in the first instance, in accordance with the banding principle of priority.
- 4.5.3 If there is no demand from applicants aged over 55 years, it will be advertised for applicants aged over 50 years and then applicants aged over 40 years and so on as required, in accordance with the principles of banding priority.

## 4.6 Bedroom Entitlement

- 4.6.1 In some cases where there is a need for an additional bedroom as assessed through health or social needs the applicant's bedroom entitlement may be re-classified, even if the property is not fully occupied at the time.
- 4.6.2 In health terms this may mean an application through serious health problems may require to sleep in a separate bedroom from a partner, or may require a carer to stay overnight. Supporting evidence may be required to consider such requests.
- 4.6.3 For social reasons this may mean that an additional bedroom is required for an exceptional reason. Supporting evidence may be required to consider such requests.
- 4.6.4 In all such cases the decision to grant an additional bedroom entitlement to the applicant will be made by Tai Tarian, who will have regard to supporting evidence provided by the applicant.
- 4.6.5 Due to the shortage of 4 bedroom properties, 3 bedroom properties with two reception rooms will be considered as suitable for 4 bedroom applicants, where the room sizes are large enough to accommodate such applicants and taking into account the overall size of the property.
- 4.6.6 Properties will be advertised to show the maximum number of persons that can be reasonably expected to occupy so as not to cause overcrowding.

**(Please see Table of Property Size and Type Eligibility)**

#### 4.7 Property Size & Type Eligibility

Household Size	Bedsit	Flat /Maisonette / Bungalow			House				
		1 Bed	2 Bed	3 Bed	1 Bed	2 Bed	3 Bed	*3 Bed (Parlour Type)	4 Bed +
Single Person	√	√							
Single Person with overnight access to one child +		√	√						
Single couple who are pregnant 20+ weeks		√	√			√			
Couple		√	√						
*2 Single Adults			√						
3 Single Adults				√			√	√	
Single Adult / Couple + 1 Child or Non-Dependent			√			√			
Single Adult / Couple + 2 Children (different sex, aged under 10)			√	√		√	√		
Single Adult / couple + 2 children (same sex aged under 16)			√	√		√	√		
Single Adult / Couple + 2 children (different sex, one child Aged 10+)				√		√	√		
Single Adult / Couple + 3 Children				√			√	√	
Single Adult / Couple + 4 or more Children							√	√	√
Other family households that qualify for 4 bedrooms								√	√



\*2 single adults may be considered for a house as well as a flat in “low demand” areas

\*3 Bed (Parlour Type): see **Section 4.6.5**

**Maximum Occupancy**

NB. Properties will be advertised to show the maximum number of persons that can be reasonably expected to occupy so as not to cause overcrowding.

**Note** that the above table is subject to the discretion set out above in **Section 4.6** of this appendix where there is a need for an additional bedroom as assessed through health or social needs, to re-classify the applicant’s bedroom entitlement, even if the property is not fully occupied all the time.

The table below sets out the **Categorisation of Applicants**

Person Category Classification	Suitable Applicants
<b>D</b>	Disabled facilities required by applicant as agreed by Tai Tarian. Properties are classified according to the level of adaptations.
<b>G</b>	General needs applicants accommodation
<b>O</b>	Older applicants and family members aged over 55 years. We will be flexible regarding this age restriction, particularly where an applicant who does not meet the age criteria has mobility problems.
<b>S</b>	Applicants whose accommodation needs after an assessment can be more appropriately met by supported accommodation; and so will either be considered for a supported housing unit with Tai Tarian or another provider.

## APPENDIX 5 - ADAPTED DISABLED ACCOMMODATION CRITERIA

- 5.1 At the point of the application assessment by Tai Tarian an applicant will provide details of their housing need. Under the banding scheme a number of needs factors may be considered, one of which may be in relation to the health needs of the applicant.
- 5.2 Where the applicant has declared to Tai Tarian that they have health needs which are affected by their present housing circumstances Tai Tarian will ask the applicant for their particular health needs to determine the level of health need using the relevant factors in the banding scheme.
- 5.3 Where an applicant has stated that they need a property with disabled facilities a health assessment will be completed to determine whether the applicant should be considered for adapted disabled accommodation in accordance with **Section 7** of this policy. A referral may be required of an Occupational Therapist or other relevant medical practitioner who may discuss the matter with the applicant. This will be undertaken prior to the decision to consider the applicant as a disabled category applicant.
- 5.4 If an applicant meets the criteria for acceptance of a property with disabled facilities their application details will be included in the banding scheme and given an applicant category status of D (disabled facilities). Their details will be retained on an additional list of applicants who require disabled facilities which details their adaptation requirements.
- 5.5 The eligibility of an applicant's need for adapted accommodation may be measured by criteria including:-
- Any mobility issues to the applicant or other person within the household who are to be re-housed.
  - Whether the applicant, or other person within the household, is a wheelchair user.
  - Whether the applicant, or other person within the household, require a walk in shower facility.
  - Whether there are any children with disabilities within the household.
  - Whether the applicant, or other person within the household, is in receipt of a benefit that classes them as in need of a certain level of care, such as the medium to high rate of the care component of Disability Living Allowance, high rate of Mobility Allowance, standard or enhanced rate of the daily living component of the Personal Independence Payment, the enhanced rate of mobility of the Personal Independence Payment or Attendance Allowance.
  - Whether the person requiring the adapted accommodation is primarily resident with the applicant or whether the application for adapted accommodation relates to a household in which the person requiring the adaptation is not ordinarily or primarily resident (and their main place of residence is adapted to meet their needs).
  - Whether the person requiring the adapted accommodation is currently primarily resident in a property which meets their needs for adapted accommodation.

- 5.6 Where it is identified that the applicant has stated that they require a property with disabled facilities the application will be held pending a decision on whether to consider that applicant as a disabled category applicant. These applications will be held to ensure suitable accommodation is considered and all relevant information has been received.
- 5.7 In considering the correct type of property for the applicant regard may be given to the bedroom entitlement of the applicant where it is identified that the applicant requires an additional/separate bedroom due to their health needs.
- 5.8 In accordance with **Section 7**, offers of adapted accommodation will be made outside the Homes by Choice Scheme after being identified as suitable for disabled applicants.
- 5.9 When a property is identified as adapted, meeting the minimum criteria for an adapted property, it may be considered for an applicant with an applicant category D as follows:-
- An applicant whose needs for disabled facilities best match the disabled facilities in the property.
  - Where the property with disabled facilities is in the applicants' area of choice.
- 5.10 Any offer of an adapted property may be ratified by an Occupational Therapist or other medical practitioner who is involved in the case and can verify that the property meets the needs of the applicant.
- 5.11 Where two or more applicants are best matched to the property on an equal needs basis the overriding factor will be the size of accommodation which best meets the household size of the applicant and if equal in terms of size then in date of application order.

## APPENDIX 6 - WELFARE ASSESSMENTS

- 6.1 At the point of the application assessment by a Tai Tarian appointed person an applicant will provide details of their housing need. Under the banding scheme a number of needs factors may be considered, one of which may be in relation to the welfare needs of the applicant.
- 6.2 Where the applicant has declared to a Tai Tarian appointed person that they have welfare needs which are affected by their present housing circumstances a Tai Tarian appointed person will ask the applicant for their particular welfare needs to determine the level of welfare need using the relevant factors in the banding scheme.
- 6.3 When assessing the welfare needs of the applicant a Tai Tarian appointed person will have regard to the applicant's current housing circumstances and how their welfare is affected by this. In addition to this, a Tai Tarian appointed person may consider a number of factors which may affect the type of accommodation and area of preference requested by the applicant to determine whether such a move will benefit the applicant on welfare grounds.
- 6.4 The level of welfare need is determined by the details within the banding scheme as follows:-
- **WELFARE CASE URGENT** – Deemed to have a very high social circumstance that is seriously affected by current housing.
  - **WELFARE CASE HIGH – MOVING HOME WILL BENEFIT APPLICANT** – applicant and/or members of their household who have a serious social circumstance that would be significantly improved by moving to suitable accommodation.
  - **WELFARE CASE MEDIUM** - applicant and/or members of their household who have a minor social circumstance that would be improved by moving to suitable accommodation.
- 6.5 Where Tai Tarian considers that the applicant may be placed in the Urgent Band – Urgent Need, due to their welfare condition, Tai Tarian consider the information submitted to decide whether the case meets the criteria in the highest band, the Urgent Band.
- 6.6 Where the above applies the application may be held until the welfare assessment referral has been considered.
- 6.7 Where welfare needs has been identified a request may be made for further information from the applicant to support the application. This information may be from an external agency who is involved in the case such as, Social Services, Support Agency, health or other professionals (such as the Police, Victim Support or any other agency involved).
- 6.8 If an applicant informs Tai Tarian of a change in their circumstances which may affect their priority on the banding scheme on welfare grounds a review of their

application will be made and a revised decision on their banding priority made. This could result in their application moving up a band(s) staying the same/moving down a band(s). Until this review is completed the application may be held pending a decision.

## APPENDIX 7 - HEALTH ASSESSMENTS

- 7.1 At the point of the application assessment by a Tai Tarian appointed person, an applicant will provide details of their housing need. Under the banding scheme a number of needs factors may be considered, one of which may be in relation to the health needs of the applicant.
- 7.2 Where the applicant has declared to a Tai Tarian appointed person that they have health needs which are affected by their present housing circumstances a Tai Tarian appointed person will ask the applicant for their particular health needs to determine the level of health need using the relevant factors in the banding scheme.
- 7.3 When assessing the health needs of the applicant, a Tai Tarian appointed person will have regard to the applicant's current housing circumstances and how their health is affected by this. In addition to this a Tai Tarian appointed person will consider the type of accommodation requested by the applicant to determine whether such a move will benefit the applicant on health grounds.
- 7.4 The level of health need is determined by the details within the banding scheme as follows:-
- **HEALTH CASE URGENT** – applicant and/or members of their household with severe health needs who are seriously affected by current housing - hospital discharge, currently receiving palliative care, has a life limiting condition, or permanent substantial disability that makes existing accommodation unsuitable.
  - **HEALTH CASE HIGH – MOVING HOME WILL GREATLY BENEFIT APPLICANT** – applicant and/or members of their household who have a serious health ailment(s) or disability, but who are not housebound, or whose health, or safety is not at such a risk level to require immediate re-housing. Serious health ailments would be significantly improved by moving to suitable accommodation.
  - **HEALTH CASE MEDIUM** - applicant and/or members of their household who have a minor health ailment that would be improved by moving to suitable accommodation.
- 7.5 Where Tai Tarian considers that the applicant may be placed in the Urgent Band – Urgent Need, due to their health condition, Tai Tarian consider the information submitted to decide whether the case meets the criteria in the highest band, the Urgent Band.
- 7.6 Where the above applies the application may be held until the health assessment referral has been considered.
- 7.7 Where health needs have been identified a request may be made for further information from the applicant to support the application. This information should be from a qualified medical practitioner, Support Provider or Occupational Therapist.

- 7.8 Where an applicant requests an additional bedroom on health grounds that request will be considered in line with the bedroom entitlement criteria in the property type and size eligibility assessment.
- 7.9 Where the application assessment determines that the applicant should be considered for a certain type of accommodation on health grounds they should only bid for properties that meet their health need. Any bid for accommodation that does not alleviate their health need may be refused.
- 7.10 If an applicant informs Tai Tarian of a change in their circumstances which may affect their priority on the banding scheme on health grounds a review of their application will be made and a revised decision on their banding priority made. This could result in their application moving up a band(s)/staying the same/moving down a band(s). Until this review is completed the application may be held pending a decision.
- 7.11 Where an applicant has stated that they need a property with disabled facilities a health assessment will be completed to determine whether the applicant should be considered for adapted disabled accommodation in accordance with **Section 7** of this policy. A referral may be made to an Occupational Therapist or other relevant medical practitioner who may contact the applicant prior to presenting a recommendation on the case. Until a decision is made on the case the application may be held.
- 7.12 Where the decision is made that the applicant should be considered for adapted disabled accommodation, their details will be retained on an additional list of applicants who require disabled facilities. Offers of adapted accommodation will be made outside the Homes by Choice Scheme after being identified as suitable for disabled applicants. See **Section 7** and **Appendix 5**.



## APPENDIX 8 - ENVIRONMENTAL HEALTH ASSESSMENTS

### 8.1 Assessment Request

- 8.1.1 The Council's Environmental Health Department in accordance with their responsibilities for enforcing environmental health legislation, will where appropriate, conduct assessments for applicants relating to insanitary, overcrowded or unsatisfactory housing conditions.
- 8.1.2 Paragraph 3.30 of the Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness March 2016 states that in considering whether an applicant should be given reasonable preference as a result of insanitary, overcrowded or unsatisfactory housing conditions, a Local Authority should take into account the law governing overcrowding (Part 10 of the Housing Act 1985), legislation covering houses in multiple occupation (Part 2 of the Housing Act 2004) and the Housing Health and Safety Rating System (Part 1 of the Housing Act 2004).
- 8.1.3 The landlord, managing agent or owner are legally responsible for resolving insanitary, overcrowded or unsatisfactory housing conditions, unless the circumstances have been caused or worsened by the occupiers or visitors to the property. It is therefore only in exceptional cases where Environmental Health will intervene using their statutory powers under the Housing Acts.
- 8.1.4 For the purposes of the assessment of housing conditions, Environmental Health will have regard to the standards contained in the Housing Acts and will make assessments on the facts known, which in most cases will not require a visit to the applicants property.
- 8.1.5 The Environmental Health assessment check will include the following stages:

**Stage 1** – Obtain information from the applicant relating to the insanitary, overcrowded or unsatisfactory housing conditions, including the circumstances giving rise to the housing conditions and any evidence that the matters have been reported to the landlord, agent or property owner.

**Stage 2** – Carry out checks to establish if the landlord, agent or property owner is registered with Rent Smart Wales or is a Registered Social Housing provider. *Note: Where the responsible person has not registered with Rent Smart Wales or is not a Registered Social Landlord, Environmental Health will make an inspection of the applicant's property.*

**Stage 3** - Make contact with the person responsible for rectifying the reported matters and obtain information about the housing conditions and identify the remedial action required including a timescale for completion. *Note: Where there is the possibility of a significant risk to the health and safety of the applicant and the person responsible has a history of non-compliance, Environmental Health will make an inspection of the applicant's property.*

**Stage 4** – Using the assessment check and having regard to the facts provided, Environmental Health will where appropriate provide Tai Tarian with notification of the assessment which has been carried out.

- 8.1.6 The applicant is to evidence they have assisted with meeting the requirements of stages 1-3 of the process prior to a decision being made at stage 4, should it be required.
- 8.1.7 The circumstances which are considered when assessing housing conditions are contained in the Housing Need Bands and **Appendix 3**. A band award for an applicant will take into account an Environmental Health assessment provided by the Environmental Health Department. Such an assessment is based on the future risk to the health and safety of the applicant and where there is no prospect of the issue being remedied in a period of time that Environmental Health consider reasonable.

## APPENDIX 9 – DECISION REVIEWS

### 9.1 Review Request

9.1.1 An applicant has the right to request a review of the following decisions made by Tai Tarian where they are able to provide the appropriate supporting information in support of their request:-

- For homeless applicants, the outcome of the assessment carried out under section 62 of the HWA Eligibility for accommodation – including decisions relating to eligibility on the grounds of the applicant’s immigration status and unacceptable behaviour.
- The band awarded to the applicant.
- The property size that is considered suitable for the applicant.
- Any decision about the facts of the case which is likely to be, or has been taken into account in considering whether to allocate accommodation to the applicant
- Refusal to accept a bid from the applicant for particular premises.
- A decision under **Section 5** not to award some or all of the priority that the applicant would otherwise have been entitled due to their previous ‘unreasonable behaviour.’
- Any changes in banding or category decisions made by Tai Tarian after review.

A decision under **Section 4.10.2** as follows:-

- Allow the applicant to bid for properties but on the condition that an offer of accommodation will only be made where the applicant accepts tenancy support/intensive management from the start of the tenancy; or
- Allow the applicant to be considered for specialist accommodation that may only be found through supported housing and in certain areas allocated outside the Lettings Scheme. This may involve referring the applicant to another organisation so that suitable accommodation can be considered.

9.1.2 An applicant will receive information advising of their right to request a review of the above decisions. Any applicant wishing to request a review should be advised to seek legal advice from a solicitor, Law Centre, Housing Aid Centre or the Citizens Advice.

9.1.3 An applicant is provided with **21 days** to request a review from the date of the letter informing them of Tai Tarian’s decision, unless the review request is made against the decision by Tai Tarian to refuse (under **Section 6.16** or any other provision of the scheme) a bid made by the applicant for a property.

9.1.4 This request must be made in writing to Tai Tarian, stating the reasons why they would like the decision to be reviewed and provide additional information in support of their request.

- 9.1.5 If the review request is received after the 21 day period then it will not normally be heard, unless there are exceptional circumstances agreed by Tai Tarian that have prevented the request from being lodged within the specified period.
- 9.1.6 In the case of a review in respect of a bid for a property, any request for a review must be made within 48 hours of the application being notified of the decision. This is necessary to ensure properties are not left unallocated.
- 9.1.7 An applicant who submits a request for review shall be informed of the right to choose between a review by written submissions or by an oral review.
- 9.1.8 Reviews will be undertaken by a Tai Tarian appointed person who was not involved in the original decision and is more senior than the person who made the original decision.
- 9.1.9 In cases where the Council owes a duty to the applicant under Section 75 of the HWA but a decision is made that the applicant is excluded from the scheme or is given reduced preference due to unreasonable behaviour then the Council's Housing Options Team will be notified of the decision and a review will be undertaken by a panel, comprising of a representative from Tai Tarian and a representative from the Housing Options Team. The final decision on the review will be made by the Tai Tarian representative, although they will have regard to any representations made by the Housing Options Team representative.
- 9.1.10 In all cases (other than reviews to bidding decisions) the review request must be completed within 28 days from the date the applicant lodges their request for review.
- 9.1.11 In cases of bidding decisions, the review must be completed within 48 hours of the applicant lodging the request for a review.

## 9.2 The Oral Hearing

9.2.1 The applicant will be informed of their right to:-

- Be heard.
- Be accompanied.
- Be represented by another person, whether the person is professionally qualified or not. For the purpose of the proceedings any representative should have the rights and powers which the applicant has.
- Call any supporting witness to give evidence. There is no power to require witnesses to attend.
- Put questions to any person who gives evidence at the hearing.
- Make representations in writing.

9.2.2 The applicant will be given at least five clear days' notice of the date, time and venue for the hearing, unless the applicant agrees to a shorter period.

- 9.2.3 The review will consider the circumstances of the applicant at the time of the review, not just at the time of the original decision.
- 9.2.4 The review process may decide to adjourn the hearing to obtain any additional evidence on the applicant.
- 9.2.5 The applicant will be notified of the decision following the review. If the decision is to uphold the original decision, the decision notice will also notify the applicant of the reasons for the decision.
- 9.2.6 An unsuccessful applicant on review as to eligibility will be notified of their right to make a fresh application under Section 160A (11) if they consider they should no longer be treated as ineligible.

### 9.3 **Written Submission**

- 9.3.1 Upon receipt of a request for review by way of a written submission the review will consider the circumstances both at that time and when the original decision was made.
- 9.3.2 The applicant must be told the date when all written information to be reviewed must be lodged with Tai Tarian.
- 9.3.3 The applicant will be notified of the decision following the review. If the decision is to confirm the original decision, the decision notice will also notify the applicant for the reasons for the decision.
- 9.3.4 An unsuccessful applicant on review as to eligibility will be notified of their right to make a fresh application under Section 160A (11) if they consider they should no longer be treated as ineligible.