



## DEPOSIT BOND / RENT DEPOSIT / RENT IN ADVANCE SCHEME

### INTRODUCTION

This procedure note explains Tonbridge and Malling Borough Council's (TMBC) rent deposit bond / rent deposit / rent in advance scheme. It includes information on who is eligible to be assisted through the scheme and how an application from a customer should be processed.

The rent deposit scheme is used to prevent homelessness by assisting eligible households to secure accommodation in the private sector, usually by way of a deposit bond. Homeless households where the Council have accepted the main housing duty in accordance with s.193 Housing Act 1996 (as amended) will usually have the duty discharged by an offer of private rented accommodation, and will be eligible to apply for a deposit bond. (See separate document – "Policy for discharging statutory homelessness duty into the private rented sector" for further details)

In exceptional circumstances, where a deposit bond is not acceptable to the landlord, the deposit will be made by way of an interest-free payment to the landlord, which is repayable by the tenant in weekly or monthly instalments. Additional payments to cover rent in advance or other fees or charges will also only be considered in exceptional circumstances.

The deposit bond provides financial compensation to landlords for rent arrears (to a maximum figure of one month/six weeks rent), theft and/or damage caused by the tenants and members of his/her household and any extraordinary cleaning costs at the end of the tenancy (also restricted to a maximum figure equivalent to one month/six weeks rent).

The bond does not cover:

- theft and/or damage by others
- reasonable wear and tear to fixtures, fittings and furnishings
- items covered by the landlords own buildings and/or contents insurance
- costs related to items that the landlord has a duty to supply and maintain
- unpaid utility bills and/or service charges or
- personal debts to the landlord or letting agent

### Step One – Establish if the customer is eligible for the scheme

#### Eligibility - General

In order for an applicant's eligibility under this scheme to be assessed, an interview with a Housing Options Officer will be arranged. The basic criteria for eligibility are as follows:

Applicants must be eligible to join the Council's Housing Register, whether or not they are actually included on the register. An applicant may be ineligible to join the housing register

because they are subject to immigration control within the meaning of the Asylum and Immigration Act 1996 (unless the Secretary of State has stated that they should be eligible for housing). This includes the following groups of people:

- visitors who have limited leave to enter or remain in the UK, granted on the understanding that they will not get public funding;
- people who have valid leave to enter or remain in the UK, which includes a condition that they will not get public funding;
- asylum seekers;
- most people who are not habitually resident in the UK, including certain people who are in the UK under sponsorship arrangements;
- illegal entrants;
- people who have overstayed their leave; or
- any other person from abroad who the Secretary of State has judged ineligible for housing

### **Eligibility – Financial considerations**

Applicants must have no other means of securing sufficient funds for a deposit, for example from a bank loan or overdraft, or assistance from family or friends.

Applicants will not usually be eligible for a deposit bond, rent deposit or rent in advance payment if they have any outstanding debts to the Council (including any previous rent deposit which has not been repaid in full). Where there is an outstanding debt, the applicant's repayment history and ability to keep to agreed repayment schedule will be relevant. All cases should be considered on their merits, and reasons for any non payment and extenuating circumstances such as joint liability for debts with previous partners taken into account

***Details of any arrangement made to provide a bond or cash deposit for an applicant with an outstanding debt to the Council must be recorded on a file note in the customer's file, signed by the Housing Options Manager and authorised by the Housing Needs Manager or in her absence, the Chief Housing Officer.***

### **Eligibility - Local Connection**

Applicants must have a local connection with Tonbridge and Malling. Applicants will have a local connection if at the date of application:

- they are currently resident within the borough, or were previously resident here for either 6 out of the last 12 months, or 3 out of the last 5 years;
- they are employed (full time or part time) in the borough on a permanent basis, or need to move into the borough on order to take up an offer of permanent employment;
- they have immediate family members (parents, brothers, sisters or adult children) who currently reside in the borough, and have lived here for the last 5 years or more;
- they are a serving member of the Regular Forces or a former member within five years of discharge (or a bereaved spouse or civil partner of such a member), or a serving or former member of the Reserve Forces who needs to move because of a serious injury, medical condition or disability sustained as a result of their service; or
- they have other special reasons for living in the borough, for example they are currently residing outside the borough but are fleeing violence or harassment (including hate

crime), they need to move into the borough to provide or receive care and support, or a member of their household is aged under 19 years and attending full time education here.

Where an applicant has a local connection to more than one authority they should apply to all relevant boroughs for assistance with rent deposit schemes, to maximise their chances of finding a suitable property.

### **Eligibility - Homelessness**

Applicants must be homeless or threatened with homelessness in the near future, usually within the next two months. Applicants who are likely to be considered as intentionally homeless will only be considered in exceptional circumstances.

### **Eligibility – Priority Need**

Applicants must fall into one of the following categories of priority need:

- a pregnant woman or a person with whom she resides or might reasonably be expected to reside;
- a person with whom dependent children reside or might reasonably be expected to reside;
- a person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside;
- a person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster.
- a person aged sixteen or seventeen who is not a relevant child or a child in need to whom a local authority owes a duty under section 20 of the Children Act 1989;
- a person under 21 who was (but is no longer) looked after, accommodated or fostered between the ages of 16 and 18 (except where a person is a “relevant student” – a care leaver to whom section 24B (3) of the Children Act 1989 applies, who is in full time further or higher education and whose term time accommodation is not available during a vacation);
- a person who is vulnerable as a result of having been a member of Her Majesty’s regular naval, military or air forces;
- a person who is vulnerable as a result of;
  - having served a custodial sentence,
  - having been committed for contempt of court or any other kindred offence, or
  - having been remanded in custody;
- a person who is vulnerable as a result of ceasing to occupy accommodation because of violence from another person or threats of violence from another person which are likely to be carried out.

Applicants who are not in priority need will only be considered in exceptional circumstances, for example, some older single homeless applicants, or those in low paid employment with no other way of securing finance, and who can demonstrate an ability to repay any cash loaned within a reasonable timescale.

***Details of any arrangement made to offer a deposit bond or rent deposit/rent in advance payment to applicants with no local connection, or who are likely to be intentionally homeless or not in priority need must be recorded on a file note in the***

***customer's file, signed by the Housing Options Manager and authorised by the Housing Needs Manager or in her absence, the Chief Housing Officer.***

## **Step two – processing an application**

### **Application - General**

The application form for a Deposit Bond/Rent Deposit/Rent in Advance payment must be completed either by the applicant or on the applicant's behalf. This application form is to be used for all applications, including deposit bond, cash deposit or rent in advance. This form, as well as the other paperwork needed to process a rent deposit application, is stored in 'I Drive/House/Admin/Housing Options/Rent Deposit Bond Scheme April 09 onwards/Masters for Rent Deposit Scheme.

Eligible applicants are entitled to a bond of equivalent value of up to a maximum of six weeks rent. Where a bond is not acceptable, a cash payment for the equivalent amount will be paid to the landlord as a deposit, to secure private rented accommodation. Where a bond is acceptable, the applicant is required to set aside monthly payments (preferably in a separate savings account) over twelve months, so that the bond can be replaced by a cash deposit at the end of the first 12 months. This deposit can then be used to secure the tenancy for a further period, or transferred to another property.

Additional payments to cover rent in advance or other fees or charges necessary to secure a tenancy (for example referencing fees) will only be considered in exceptional circumstances, and will not be considered unless the applicant is in priority need for assistance.

***Details of any arrangement made to provide a bond or cash deposit for an amount higher than the equivalent value of six weeks or to make payments in respect of rent in advance or other fees and charges must be recorded on a file note in the customer's file, signed by the Housing Options Manager and authorised by the Housing Needs Manager or in her absence, the Chief Housing Officer.***

### **Application - Maximum amounts**

The maximum amount of the deposit bond or rent deposit payment is the equivalent of six weeks rent as a deposit, plus (in exceptional circumstances) the equivalent of one calendar month (or four weeks) rent in advance. Properties within Tonbridge and Malling fall into one of three broad market rental areas (High Weald, Maidstone or Medway & Swale) and the amount of LHA payable varies between the three. Some applicants will seek rented accommodation outside the borough, where different LHA rates will apply. Although the actual amount advanced for a rent deposit will vary according to the LHA area, the absolute maximum for properties within the borough will be the equivalent of the rate for High Weald (as at January 2013):

1 bedroomed property 6 weeks @ £132.69 = £796.14  
 2 bedroomed property 6 weeks @ £173.08 = £1038.48  
 3 bedroomed property 6 weeks @ £206.36 = £1238.16  
 4 bedroomed property 6 weeks @ £330.19 = £1981.14

The LHA rates are updated annually. The Housing Options Officer should check that the prevailing rate as at the tenancy start date is used to determine the amount of the advance.

Single applicants under the age of 35 should be advised that Local Housing Allowance is usually restricted to the amount allowed for a room with shared facilities.

Once the maximum amount to be advanced has been agreed, a repayment schedule should be drawn up to ensure that the advance is repaid as soon as possible over a period of 12 months.

***Where a repayment period of 12 months would cause exceptional hardship, the repayment period can be extended to 18 months where authorised by the Housing Needs Manager or in her absence, the Chief Housing Officer.***

Eg. Applicant requires 2 bedroom property @ Maidstone LHA rate of £150 per week  
Maximum deposit advanced = £900, minimum repayments to TMBC over 12 months are £75.00 per calendar month, or over 18 months are £50.00 per calendar month.

***Where applicants are experiencing financial hardship, repayment amounts, frequency of payments/temporary payment holidays may be negotiated with the agreement of the Finance Department.***

#### **Application – General Procedure**

The applicant must complete and sign the Deposit Bond/Rent Deposit/Rent in Advance application form and provide the necessary documents to verify their eligibility for the scheme. The Housing Options Officer must complete all relevant parts of the Deposit Bond/Rent Deposit/Rent in Advance Scheme Checklist, and ensure that certified copies of original documents are placed on the applicants file. These documents will include proof of ID for all members of the household (birth certificate, passport, driving licence etc), proof of current address(es) and proof of income (wage slips, last 2 months bank statements, proof of benefit entitlement etc). National Insurance numbers of all adult members of the household must be obtained. Where the applicant is unable to provide sufficient proof of their income, the Housing Options Officer will undertake an Experian check to verify their circumstances.

The Housing Options Officer must complete a detailed financial statement with the applicant to ensure that repayments are affordable, and advise the applicant of the consequences of failing to keep to the terms of the repayment agreement.

#### **Application – Deposit Bond**

If the applicant is eligible to be considered for a deposit bond:

The Housing Options Officer should send an email to Fraud, Exchequer and Council Tax to check there are no outstanding debts to the Council before proceeding with application. If these investigations reveal a debt, the application should be referred to the Housing Options Manager, who will consider the circumstances and decide whether to offer a bond.

***Details of any arrangement made to provide a bond where the applicant has an existing debt must be recorded on a file note in the customer's file, signed by the Housing Options Manager and authorised by the Housing Needs Manager or in her absence, the Chief Housing Officer.***

Once a suitable property has been identified, the Housing Options Officer should contact the landlord to verify that:

- the property is a suitable size for the applicant's household
- the rent level is within LHA rates
- a deposit bond is acceptable
- the property has smoke detectors and a current gas safety certificate, EPC and electrical safety certificate where appropriate (copies to be obtained for the file)
- a detailed inventory has been taken (a copy to be obtained for the file)
- wherever possible, the tenancy should be for a minimum period of 12 months (this is a mandatory requirement for discharge of main housing duty cases)

The Housing Options Officer should then refer the details to the Private Sector Housing Team, together with copies of the gas safety certificate, EPC (and electrical safety certificate where issued) and inventory, to arrange an inspection. Once the Private Sector Housing Team are satisfied that the property is suitable for the applicant, and meets the requirements of the Homelessness (Suitability of Accommodation (England) Order 2012, the Deposit Bond/Rent Deposit/Rent in Advance application should be passed to the Housing Options Manager for authorisation, except in those cases where the Housing Needs Manager must authorise the bond.

The amount of the deposit bond will depend on:

- the size of the property the household requires, i.e. a single person or couple with one child would require a two bedroom property and would therefore only be assisted to secure a two bed roomed home
- the weekly or monthly rent liability

The deposit bond is valid for the fixed period of the tenancy ie six or twelve months. During the period of the tenancy, the tenant is expected to make regular payments to the landlord, or set aside sufficient monies where the landlord is not willing to accept payments. This is to ensure that the bond can be replaced with a cash deposit at the end of the fixed term of the tenancy. If the landlord agrees that the tenant can continue in occupation at the end of the fixed term, whether or not a further tenancy is granted, the landlord must request a further bond if required. Any payments made by the tenant towards a deposit will be deducted from the amount requested. A further bond, for some or all of the original amount, will usually only be agreed if the tenant has not made sufficient payments during the course of the tenancy to replace the bond with a deposit and there have been no problems with the conduct of the tenancy.

Once the bond has been agreed, the Housing Options Officer should give one copy of the Deposit Bond Scheme Terms and Conditions to both the landlord and the tenant, together with a copy of the relevant Deposit Bond Scheme agreement. The landlord and tenant should each sign the appropriate agreement, which should be countersigned by the Housing Options Manager. The originals should be kept on the applicant's file and a copy given to the landlord and tenant.

The Housing Options Officer should send an e-mail to the Accounts team, detailing the amount and duration of the bond, and keep a copy of the e-mail on the file.

Details of the bond should be entered on the spreadsheet "Deposit Bonds.xls" which is held at I:/House/Admin/Housing Options/Rent Deposit Bond Scheme Feb 09 onwards

Once the tenancy start date is known, the Housing Options Officer should diarise a date 6 weeks after the start of the tenancy to make a telephone call to both the tenant and the landlord to:

- check whether the tenant is making regular bond instalment payments as agreed
- check whether the tenancy is running smoothly, with no issues that could lead to a potential claim being made against the bond
- verify any changes in circumstances

### **Application – Rent Deposit and/or Rent in Advance**

If the applicant is eligible to be considered for a cash payment in respect of a Rent Deposit and/or Rent in Advance:

The Housing Options Officer should send an email to Fraud, Exchequer and Council Tax to check there are no outstanding debts to the Council before proceeding with application. If these investigations reveal a debt, the application should be referred to the Housing Options Manager, who will consider the circumstances and decide whether to offer a cash deposit or a bond.

***Details of any arrangement made to provide a cash deposit or a bond where the applicant has an existing debt must be recorded on a file note in the customer's file, signed by the Housing Options Manager and authorised by the Housing Needs Manager or in her absence, the Chief Housing Officer.***

Once a suitable property has been identified, the Housing Options Officer should contact the landlord to verify that:

- the property is a suitable size for the applicant's household
- the rent level is within LHA rates
- the property has smoke detectors and a current gas safety certificate, EPC and electrical safety certificate where appropriate (copies to be obtained for the file)
- a detailed inventory has been taken (a copy to be obtained for the file)

The Housing Options Officer should then refer the details to the Private Sector Housing Team, together with copies of the gas safety certificate, EPC (and electrical safety certificate where issued) and inventory, to arrange an inspection. Once the Private Sector Housing Team are satisfied that the property is suitable for the applicant, and meets the requirements of the Homelessness (Suitability of Accommodation (England) Order 2012, the Rent Deposit/Rent in Advance application should be passed to the Housing Options Manager for authorisation, except in those cases where the Housing Needs Manager must authorise the payment.

The amount of the rent deposit and/or rent in advance will depend on:

- the size of the property the household requires, i.e. a single person or couple with one child would require a two bedroom property and would therefore only be assisted to secure a two bedroomed home

- the weekly or monthly rent liability

Where a cash payment is made direct to the landlord, the tenant is expected to make regular payments to repay the advance, interest free over a maximum period of 18 months. This period can be extended to 24 months in exceptional circumstances to make repayments more affordable to the applicant.

Applicants are required to make a first repayment on the day that they sign the agreement, and sign a standing order mandate for regular repayments. The Housing Options Officer should complete the standing order mandate form, setting out the required payments, for the applicant(s) to sign.

Once the cash deposit and/or rent in advance payment has been agreed, the Housing Options Officer should give one copy of the Rent Deposit and/or Rent in Advance Scheme Terms and conditions to both the landlord and the tenant, together with a copy of the relevant Rent Deposit and/or Rent in Advance Scheme agreement. The landlord and tenant should each sign the appropriate agreement, which should be countersigned by the Housing Options Officer. The originals should be kept on the applicant's file and a copy given to the landlord and tenant.

The Housing Options Officer will need to raise a BACS (or cheque) payment to the landlord's account for the specified amount, and raise an invoice for the full amount to be sent to the applicant. Full details are included in the separate financial procedures for the rent deposit scheme.

Details of the rent deposit and/or rent in advance payment should be entered on the spreadsheet "Rent Deposit Advances.xls" which is held at I:/House/Admin/Housing Options/Rent Deposit Bond Scheme Feb 09 onwards/Rent Deposit Advances

The following must be provided by the landlord to the Council within 14 days of the funds clearing in their account:

- A copy of the tenancy agreement
- Details of their chosen Tenancy Deposit Protection Scheme. If the scheme provider gives a letter or certificate evidencing protection of the deposit, then the landlord must give a copy to the Housing Options Officer. If the chosen scheme provider allows, the Landlord should register the Council as an interested 3<sup>rd</sup> party.

Once received, the Checklist form will need to be updated. Copies of the documents should be taken and placed in the applicant's file.

These procedures are subject to necessary changes as required in line with all other procedures, protocols, and policy. Each year, the Housing Options Manager will instigate an annual review of these procedures.