



Advice for people who are homeless or likely to become homeless within the next 8 weeks about their rights to accommodation and assistance from the Council under the Housing Act 1996

When you ask the Council's Homelessness Department for help, their duty to you will depend on your circumstances.

Unless the Council have no reason to believe that you may be homeless or at risk of homelessness within the next 8 weeks, it is unlawful for them to turn you away without accepting a Homelessness Application from you and making a written decision about what duty they have to help you.

At the end of this document you will find a Glossary where many of the terms used are explained.

Are you *Eligible* for Homelessness Assistance?

You will be eligible for help from the Council's Homelessness Department if you are:

- a British citizen;
- a refugee;
- a person with leave to remain with no restriction on public funds; or
- an EEA national (or family member) with a qualifying right to reside in the UK.

If the Council decide that you are not *eligible* then they must give you a Section 184 Decision Letter telling you that they have made this decision and giving you the right to review their decision. It is unlawful for them to just turn you away or tell you to go somewhere else.

The Council should also give you information about other services that can help you, such as the Council's social services department and /or other voluntary agencies.

The Prevention Duty

Are you not homeless yet but at risk of homelessness within 8 weeks?

If you are **eligible** for assistance and at risk of homelessness within 8 weeks or have received a valid s.21 Notice the Council have a duty to take reasonable steps to help you either avoid losing your current home or to find somewhere else to stay before you become homeless. The accommodation they help you find must be both suitable and likely to last for at least 6 months. This might include speaking to your current landlord, helping you to reduce the amount of rent that you owe or helping you with a deposit or bond for new accommodation.

This is called the **prevention duty**. To decide what help they will give you and what they will ask you to do, the Council must carry out an **Assessment and Personalised Plan** (see below for information about what this means).

The Council's prevention duty ends if any of the following apply:

- You are no longer threatened with homelessness - for example you can keep your home or have found somewhere else suitable for you and this is likely to last at least 6 months.
- You have received and refused an offer of suitable accommodation that was likely to last more than 6 months.
- You have become homeless intentionally from accommodation that was secured for you by the Council as part of the prevention duty.
- You become homeless, before finding alternative accommodation.
- After 8 weeks, if you are still threatened with homelessness.
- You deliberately and unreasonably refuse to co-operate with the steps in your Personalised Plan.
- You are no longer eligible for homelessness assistance or you have withdrawn your homelessness application.

It is important to remember that the Council still owe a prevention duty to people regardless of whether or not they are **priority need**, **intentionally homeless** or have a **local connection** with their area (see below for more information about what these terms mean).

If the council decide that the prevention duty is ended then they must give you notice in writing and you have the right to request a review of this decision.

The Relief Duty

Are you homeless now?

You will be **homeless** if you are on the streets, have no home or have nowhere safe or reasonable for you to continue to stay.

If you are **homeless** now the Council has a duty to take reasonable steps to help you find suitable accommodation that will last for at least 6 months.

This is called the **relief duty**. To decide what help they will give you and what they will ask you to do, the Council must carry out an **Assessment and Personalised Plan** (see below for information about what this means).

The Council's relief duty ends if any of the following apply:

- You are no longer **homeless** because you have found somewhere else suitable for you and likely to last at least 6 months.
- After 8 weeks; if you are still **homeless** and have not received an offer of suitable accommodation.
- You deliberately and unreasonably refuse to co-operate with the steps in your Personalised Plan.
- You receive and refuse a **final accommodation offer** that is suitable for you and available for at least 6 months.

It is important to remember that the Council still owe a relief duty to people who are not in **priority need** and/or are **intentionally homeless**.

The Council's Duty to Provide Urgent *Interim Accommodation*:

If the Council have reason to believe that you may be **eligible, homeless** and in **priority need** then they have a duty to secure suitable accommodation for you straight away. It is unlawful for them to refuse or delay providing this.

However, if the Council complete their Assessment and Personalised Plan and decide that you do not have a **local connection** with their area, they may refer you to an area where you do. They should pass on their assessment and any decisions they have made to the Council of this area.

If you are in **priority need** the Council must either continue your **interim accommodation** or secure accommodation for you until the other Council accept the referral.

The Final Homelessness (Secure) Duty:

If you are still homeless after the relief stage the Council will have to make a **final duty decision**.

- If the Council decide you are not in *priority need* then the Council's duty to help you will come to an end (even if you are still **homeless and eligible**).
- If you have already received and refused a final accommodation offer of suitable accommodation likely to last at least 6 months, then the Council's duty to help you will come to an end (even if you are still **homeless and eligible**).
- If you are still *homeless* (or living in homeless temporary accommodation), *eligible* and in *priority need* but the council decide that you have made yourself *intentionally homeless* then the Council will have a duty to ensure that **temporary accommodation** is available for you for a period of time that will give you a reasonable opportunity to find alternative accommodation. How long this period will be will depend on your circumstances.
- If you are still *homeless* (or living in homeless temporary accommodation), *eligible* and in *priority need* and *not intentionally homeless*, but the Council decide you ***deliberately and unreasonably failed to co-operate with the steps required in your Personalised Plan*** then the Council will have a duty to secure accommodation for you until such time as you receive an offer of an assured shorthold tenancy from a private landlord or an offer of social housing, or you leave or become intentionally homeless from the accommodation made available to you.
- If you are still *homeless* (or living in homeless temporary accommodation), *eligible* and in *priority need* and the council decide that you are *not intentionally homeless*, and the Council have not decided that you have failed to deliberately and unreasonably failed to co-operate with the Personalised Plan then you will be owed the **full homelessness duty** (see below).
- If the Council decide that you are owed the **full homelessness duty** but that you do not have a *local connection* with their area then they can decide to refer you to another Council where you do have a local connection. If the other Council accept the referral then it will be that Council who take over the **full homelessness duty**.

Under the **full homelessness duty** the Council have a duty to secure (rather than just help you to find) suitable accommodation for you until either you receive an offer of social housing or you receive an offer of a private rented tenancy which is at least 12 months long (with some additional checks on the property condition and suitability of the landlord). If you become homeless unintentionally from this accommodation within 2 years then you keep your priority need status, even if your circumstances have changed.

Your Right to Challenge or Request a Review of the Council's Decisions

You have a right to request a **Statutory Review** of the following decisions made by the Council in your Homelessness Application:

- You are not eligible for homelessness assistance.
- You are not homeless.
- About the steps you are being required to take as part of your Personalised Plan or a decision that you have deliberately failed to co-operate with these steps.
- You are not owed the prevention duty, or the duty has ended.
- You are not owed the relief duty, or the duty has ended.
- You are not in priority need.
- You are intentionally homeless.
- You do not have a local connection with the Council area.
- That the final accommodation offer made under the prevention or relief duty was suitable.
- That the temporary accommodation offer or final accommodation made to you after a full homelessness duty decision was suitable.

You must request your review in writing before the time limit (the decision letter should tell you whether you have 14 or 21 days). The Review Officer then has 8 weeks to make a decision. The Council do not have a duty to accommodate you during this time, but they have a power to do so and should provide accommodation if you have a good case and nowhere else to stay. If you are unhappy with the Review Officer's decision you then have the right to appeal to the County Court and must do this within 21 days.

Some Council decisions do not have a right to statutory review, but you can still challenge them by issuing an application for judicial review in the High Court. The following are some examples of judicial review challenges:

- When the Council turn you away, send you somewhere else or tell you to go to another Council without arranging for an Assessment and Personalised Plan or giving you a decision letter to tell you why they are not going to help you.
- When the Council have reason to believe that you may be eligible, homeless and in priority need but they refuse to provide you with **urgent interim accommodation** straight away whilst you are waiting for a final offer of accommodation or a final duty decision.
- When the Council give you urgent interim accommodation, but the accommodation is not suitable for you or your family.
- When you request a review, but the Council refuse to provide you with accommodation whilst they make the review decision.

- When the Council fail to make a review decision within 8 weeks.

Legal Aid is available for homelessness advice and homelessness challenges and so you should always seek advice if you need help from a solicitor or legal advisor.

Glossary for Key Terms and Legal Tests:

What do the following terms mean?

Assessment and Personalised Plan:

All people who are homeless or at risk of homelessness within 8 weeks and who are eligible for help from the Council should receive an Assessment and Personalised Plan. The Assessment and Personalised Plan should include the reason why you became homeless or are at risk of losing your home, your housing and support needs and those of your family, what help you would like from the Council and what type of accommodation you would like. The Personalised Plan should set out reasonable steps for you and the Council to take in order to prevent or end (relieve) your homelessness. The steps should be based on the information in the Assessment.

Eligible for assistance:

You are likely to be eligible for assistance if you are a British citizen, a refugee, have Leave to Remain with access to public funds, an EEA/EU national or family member with a qualifying right to reside in the UK (e.g. as a result of working or permanent residence), or you are caring for child in education whose parent is an EEA/EU national who has worked in the UK.

The rules about eligibility are very complicated and so if the Council decide that you are not eligible it is important to get legal advice.

Homelessness:

You are homeless if you have no accommodation (anywhere in the world) that you have a legal right or permission to live in and that you can live in safely. The law also says that you should be treated as homeless if you have accommodation but it is not reasonable for you to stay there. For example because you will be at risk of harm, it is unaffordable or severely overcrowded. You do not have to be street homeless, you can be staying between the homes of different friends or living in accommodation that you shouldn't be expected to stay in.

Priority need:

You will be in priority need if you will have dependent children living with you full time; if you or someone in your household is pregnant; if you are aged 16 or 17; or a care leaver aged under 21 who was in local authority care aged 16 or 17.

You may also be in priority need if you or someone in your household have other problems that make you more vulnerable, less able to cope and at extra risk of harm if were to become street

homeless. Examples are old age, health problems or disabilities, history of domestic violence or other trauma.

Threatened with homelessness:

You are threatened with homelessness if you have accommodation now but there is a real risk that you will lose it within 8 weeks (56 days). This may be because you have been staying temporarily with family or friends and have been asked to leave or because your landlord is taking action to evict you. You can and should get help from the Council at an early stage - that is when they will have the most options to help you keep your home or find somewhere else to stay. If your landlord has served you with a s.21 Notice, then you should be treated as being threatened with homelessness. Sometimes Council's will say that you are not homeless until you are actually evicted, but the National Code of Guidance for Council's advises them against this.

Intentionally homeless:

No one makes themselves homeless on purpose. However, the law says the Council can treat you as being intentionally homeless if you have deliberately done or not done something that has caused you to lose or move out from your last settled accommodation.

It is important to remember that your actions should not be considered deliberate if and of the following apply:

- You were ill at the time and not able to make proper decisions, or if you were evicted because of complaints about your behaviour that were caused by your mental health issues or disability.
- You were evicted by your landlord but did nothing to deserve being evicted.
- You were evicted by your landlord because you owed rent but you could not afford to pay the rent as well as afford to buy food and other essentials. For example, because of problems with your benefits, losing your job or becoming unwell.
- You had to leave your home because it was unsafe. This may be because of actual violence or serious threats.
- Your circumstances meant that you could not reasonably continue to occupy your last settled home.
- You left your home voluntarily but reasonably believed that you had a home to go to and then something unexpected happened.

Local connection:

The Council can decide to refer you to another Council (after they have completed your Assessment and Personalised Plan) if you do not have a local connection to their area but do have a local connection to another Council area, so long as you will not be at risk of violence there.

You should have a local connection with an area if any of the following apply:

- You have lived there for 6 out of the last 12 months or 2 out of the last 5 years.
- You are working or self-employed in the area.

- You have close family (parents, adult children or brothers and sisters) who have lived in the area for 5 years.
- You are under 21 and have been in care in the area for at least 2 years or are under 25 and have a Pathway Plan with the Council's social services department.
- You are a Refugee and your last asylum accommodation was in the Council area.
- You have another extremely important reason to be in the Council area (e.g. for medical treatment, to be near someone who provide care for you or who you provide care for, or because you have people who support you in the area who are as important to you in your everyday life as close family).

Suitable Accommodation

Final accommodation offers:

Generally if the accommodation you are offered by the council is affordable, of the correct size and safe for you and the other members of your household then it will be considered suitable and the Council can say they have ended their duty to you. The Council have to consider whether the property location is suitable for you and should try to make sure that it is within their Council area (or as close to it as possible), but unless you have an exceptionally important reason to be housed in a particular area of the borough an offer of accommodation anywhere in the Council area is likely to be considered suitable.

Temporary accommodation offers:

The same applies for temporary accommodation. However, because it is temporary, hostel, shared housing or Bed and Breakfast style accommodation may be all that the Council have available for you. The law says that Bed and Breakfast accommodation should only be offered as a last resort and that it is not suitable for families with children or other particularly vulnerable people. For these people Council's should not place them in Bed and Breakfast for more than six weeks.

It is important to remember that you have the right to accept the accommodation offered to you and to request a review of the suitability of the accommodation. This is often the safest thing to do because if you refuse the accommodation and your review is unsuccessful the Council are likely to say they have ended their duty to you.

Urgent interim accommodation

You don't have the right to review the suitability of the urgent interim accommodation that the Council provide while they make a decision about the homelessness duty that they owe to you. However, in serious cases, where the accommodation the Council have given you is really unsuitable or causing a serious risk of harm, you may be able to challenge the suitability of the accommodation by issuing a claim for Judicial Review.