



Advice for people without children who are homeless about their rights to accommodation and support under the Care Act 2014, Mental Health Act 1983 and Localism Act 2011

Most homeless people go to the Council's homelessness department for help.

However, if you are not eligible for homelessness assistance or the council have decided they don't have a duty to help you then Social Services may have a duty to help you. Generally, this will apply to the following people:

- Those with care needs.
- Anyone who has been detained under the Mental Health Act 1983.
- Homeless people who are particularly vulnerable where Social Services accommodation and support is the only way to avoid a breach of their human rights.

If you do not have settled immigration status in the UK, it is important to remember that Social Services are likely to contact the Home Office for information about your status and they have a duty to notify the Home Office if they think that you may be unlawfully in the UK or are a refused asylum seeker who has not complied with removal directions.

The Care Act

Social Services have a duty to carry out a **Care Act Assessment** if it appears that you may have a need for care and support.

In addition, if you do not have immigration status in the UK or your immigration status says you are not entitled to public funds, Social Services are likely to complete a **Human Rights Assessment**. This is because the law says that sometimes Social Services cannot provide assistance to adults under the Care Act unless this support is required to avoid a breach of their European or human rights.

The Human Rights Assessment will involve asking questions about your immigration status to establish whether you are entitled to any other form of support or to see if there is any legal, practical or medical reason why you need to stay in the UK. For example, this may be if you have a legal right to stay, you have an outstanding immigration claim with the Home Office or any other reason why it would not be reasonable for you to leave.

The Care Act Assessment

To decide whether they have a duty to provide you with accommodation, Social Services need to consider whether you have significant difficulties with any of the following:

- (a) managing and maintaining nutrition;
- (b) maintaining personal hygiene;
- (c) managing toilet needs;
- (d) being appropriately clothed;
- (e) being able to make use of the adult's home safely;
- (f) maintaining a habitable home environment;
- (g) developing and maintaining family or other personal relationships;
- (h) accessing and engaging in work, training, education or volunteering;
- (i) making use of necessary facilities or services in the local community including public transport, and recreational facilities or services; and
- (j) carrying out any caring responsibilities the adult has for a child.

If you have 2 or more of these difficulties and they result from physical or mental health problems or disabilities and the difficulties caused are likely to cause a significant impact on your dignity and well-being (health, emotional, social and economic), or your ability to participate and contribute to society and there is nobody else that can meet your need for care and support, Social Services are likely to have a duty to help you.

If the help you need is reliant on you having suitable accommodation, they should be considered accommodation-related needs. This includes needing help with daily living tasks inside the home or needing to be in a particular area to receive care. If you have accommodation-related needs and the only way that these needs can be met is with the provision of accommodation, Social Services will have a duty to provide it. This can be in a care home or supported accommodation, or in ordinary accommodation such as a private rented tenancy.

Social services may also have a duty to provide you with financial assistance if you do not have any other way of meeting your essential living needs.

If you need urgent help because you are homeless now or do not have anywhere that is safe for you to stay then Social Services should provide you with accommodation straight away.

The Mental Health Act 1983

If you have been detained in hospital under the Mental Health Act 1983 (section 3), have been ordered to go to court by a court (section 37 or 45A) or transferred to hospital from prison (section 47 or 48) then you may be owed a housing duty as part of your aftercare (section 117).

This duty can either be owed immediately if you are ready to be discharged from hospital or later if you become homeless, so long as the accommodation is required to meet your current mental health needs or reduce the risk of your mental health deteriorating and you needing to go into hospital for treatment again.

The section 117 aftercare duty can also involve financial assistance if you have no other income or are not entitled to benefits.

If you are owed this duty, then your immigration status makes no difference although it may mean that your rent or housing costs have to be paid by the health authority (the local NHS Clinical Commissioning Group) or Social Services.

It is usually the Health Authority and Social Services in the area where you were last detained in hospital that is responsible for your aftercare.

Powers of Social Services to help that can become duties (s19 Care Act and s1 Localism Act)

Social Services have two powers to provide accommodation to homeless people.

The first is the power to provide accommodation under section 19 (1) of the Care Act for people whose needs are not serious enough for them to qualify for a duty under the Care Act.

The second is the general power found in section 1 of the Localism Act to provide to do anything that an individual may do for the benefit of its residents.

If you can show that you are homeless or have nowhere safe to stay and there is no other help available to you, and your circumstances are such that the Social Services or Council need to exercise their powers to help you to avoid a breach of your human rights, then the Council's power to help will turn into a legal duty. Examples of situations where the Council may have a duty to help are if you are homeless and pregnant, fleeing domestic violence, a victim of trafficking or have medical problems or other vulnerability but no needs for care.

Temporary accommodation and help returning home

If you are homeless and want to return to your home country or if Social Services decide that you could avoid any breach of your human rights in the UK by returning to your home country, they should offer you help in making the arrangements, getting funding for travel and help you with any urgent housing or financial needs until you are able to leave.

How to contact Social Services

Some Councils (e.g. Manchester) have a dedicated **No Recourse to Public Funds Team** at Social Services which you can contact directly. For other Councils you may need to approach the relevant Social Services children's team for your area.

You should be able to find out how to contact the correct team by using the Council numbers below:

You should be able to find out how to contact the correct team by using the Council numbers below:

Manchester:	0161 234 5000 (main Council number) 0161 227 3901 The "No Recourse to Public Funds: Team at 128 Gorton South Office, Mount Road, M18 7GS
Bolton:	01204 333 333
Bury:	0161 253 6565
Oldham:	0161 770 3000
Rochdale:	0161 253 6565
Salford:	0161 793 2500
Stockport:	0161 217 6111
Tameside:	0161 330 3818
Trafford:	0161 912 2000
Wigan:	01942 486386

If you need help urgently, Social Services should provide you with emergency support to make sure that you have somewhere safe to stay and that you are able to meet your essential needs for food etc.

They can then go on to complete their assessments and make a decision about what help they will give you in the longer term.

The assistance that Social Services give you should be based on their assessment and you are entitled to see a copy.

If you are refused assistance or you do not think the assistance Social Service is providing is adequate to meet your needs then you may be able to challenge the decision by making an application to the High Court for Judicial Review.

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.