











Homelessness Best Practice delivers training and consultancy to tackle common myths that the homelessness sector perpetuate about the law which stop people being housed.

We believe that if Local Authorities were honest about unlawful practices in the sector and actually took adequate steps to address them, a chain of events would be triggered which would ultimately largely eradicate homelessness

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Likely to become homeless within 56 days (threatened with homelessness)

LA commences inquiries into eligibility

If the LA is satisfied the applicant is not eligible, a not eligible decision must be issued explaining the right to review in a language the applicant understands.

Once LA is satisfied applicant is eligible for assistance, LA continues s.184 inquiries. If at any point in the subsequent process LA becomes satisfied that the applicant is not threatened with homelessness, LA must issue s.184 decision stating the reasoning and explaining the right to review.

Once LA is satisfied person is eligible AND threatened with homelessness, duty to carry out assessment, create Personalised Housing Plan (PHP) and Prevention Duty starts. (note - no interim accommodation duty is engaged if there is only reason to believe the applicant may be threatened with homelessness rather than may be already homeless)

LA carries out assessment into why the applicant became homeless, what type of accommodation the applicant and each individual household member needs, and what support they all need to maintain / find new

LA collaborates with applicant to form Personalised Housing Plan which sets out the reasonable steps that both the LA and the applicannt will take to prevent homelessness or find suitable accommodation that the household can move to in a planned way that is likely to be available for at least 6 months

If applicant become homeless at any point during this stage, relief duty kicks in immediately

Except where a valid notice to quit has been served, the prevention duty will end after 56 days, even if the applicant remains threatened with homelessness, although the housing authority has the discretion to extend the prevention duty

the prevention duty ends if the applicant refuses offer of suitable accommodation (and, on the date of refusal, there was a reasonable prospect that suitable accommodation would be available for 6 months), or if the applicant is deemed to have unreasonably refused to co-operate. This refusal / unreasonable refusing to co-operate does not affect any duties the housing authority may have if the applicant subsequently becomes homeless

## Interim Accommodation Duties

If at any point during the initial stage and relief stage the LA becomes satisfied that the applicant is not in priority need and / or not homeless and / or not eligible, the s.188 duty ceases. A s.184 letter will need to be issued explaining the reasoning and the right to request a review.

If the decision is that the applicant is not in priority need, but may still be eligible and may be still be homeless, the s.184 process will continue, but the interim duty to accommodate has ended. This duty runs alongside the

subsequent relief duty

If the individual rejects the offer of interim accommodation the only way they can challenge the suitability of accommodation is by going to court. If the applicant does not adhere to the rules of the interim accommodation it will be understood as an implicit rejection of the interim accommodation.

Whilst all interim accommodation must be suitable, this may still be overcrowded / in another area, and the applicant may be moved between interim accommodation addresses repeatedly with little notice.

The interim duty to accommodate runs simulataneously with the initial inquiry stage and relief stage of the homelessness application process. It can kick in at any point up until the issuing of the final s.184 decision if the council has reason to believe the applicant may be homeless, may be eligible, and may have a priority need

Once the s.184 decision has been issued, if the applicant has been found to be homeless, eligible and in priority need the interim duty to accommodate under s.188 is replaced by the duty to provide temporary accommodation either under the main housing duty under s.193 whilst the applicant waits for their settled accommodation or short term duty to those intentionally homeless under s.190

The applicant can now challenge the suitability of the temporary accommodation through the s.202 review process rather than judicial review

Because the temporary accommodation duty may last years, the assessment of suitability changes as this accommodation is no longer provided in an emergency so should be better in terms of size and location.

If applicant loses temporary accommodation after the final decision is reached the LA can end all duties to them, although the applicant can make a fresh application to the same LA which will then need to treat the

application from the start

GATEKEEPING Homelessness is a lifestyle choice HOMELESSNESS IS A CIVIL RIGHTS ISSUE.



Person approaches the local housing authority (LA) asking for help with housing and gives the LA reason to believe they may be homeless or they may be likely to become homeless within the next 56 days (threatened with homelessness). This engages s.184 instantly and is known as an application for homelessness assistance (i.e. a homeless application) under Part 7 of the Housing Act 1996. Homeless Applications can be made to any department of the local housing authority and expressed in any particular form, including applications to get on the housing register where the applicant gives the LA reason to believe they may be homeless / threatened with homelessness.

The LA has a duty to provide competent and adequate advice to everyone who approaches them for help with housing in their district under s.179. This could be very detailed, and must include the applicant's right to make a homelessness application as well as what benefits / exemptions they are eligible for, as well as the implications of making the choices they have on other assistance owed to them.

If applicant appears to have care and support needs, s.9 of the Care Act 2014 is triggered immediately in unitary authorities (where housing and social services are part of the same LA). The LA should therefore carry out an assessment of the applicant's care and support needs which may in turn be of great help in the subsequent homeless application

If the Local Authority (LA) believes the applicant may have a disability, it must carefully assess the effects of the disability in how it delivers subsequent assistance. If the LA has information that another protected characteristic is relevant (e.g. language) then subsequent assistance should take this into account

If the applicant may be homeless, follow the arrow **down**If the applicant may be threatened with homelessness, follow the arrow **left** 

If the LA has reason to believe the applicant MAY be homeless, MAY be eligible for assistance and MAY have a priority need, suitable interim accommodation must be secured immediately under s.188

LA commences inquiries into eligibility

If the LA is satisfied the applicant is not eligible, a 'not eligible' decision must be issued explaining the right to request a review in a language the applicant understands. If the applicant asks to be housed during review process and provides significant new information about eligibility the LA must house them pending the outcome of the review if there is still information that gives the LA reason to believe they may be homeless and may have a priority need.

Once the LA is satisfied applicant is eligible for assistance, LA continues s.184 inquiries, including inquiries into whether the applicant needs assistance protecting their property.

If at any point in the subsequent process the LA becomes satisfied that the applicant is not homeless, the LA must issue s.184 decision stating the reasoning and explaining the right to request a review. If the applicant asks for a review and to be housed pending its outcome, and there is still reason to believe the applicant may be in priority need, and may be eligible, and gives significant new relevant information that means they may be homeless, LA must accommodate them pending the outcome.

The duty to carry out assessment and create a Personalised Housing Plan (PHP), and the relief period starts as soon as LA is satisfied the applicant is homeless and eligible.

Assessment, Personalised Housing Plan (PHP) and Relief Duty Stage

LA carries out assessment into why the applicant became homeless, what type of accommodation the applicant and each individual household member needs, and what support they all need to maintain accommodation

LA collaborates with applicant to create Personalised Housing Plan which sets out the reasonable steps that both the LA and the applicant will take to relieve homelessness.

Once the LA has undertaken assessment and created the PHP, the relief duty starts unless the LA decides to engage local connection criteria. The LA does not have to consider local connection. If applicant has no local connection with the authority, and has a local connection elsewhere, the LA can refer to the other area's council as long as there is no risk of abuse in that area. The 2nd LA picks up the relief duty once the referral is completed and the 2nd LA continues the application process onto completion. The 1st LA sends the assessment and PHP to the second LA as part of the referral.

At any point during relief stage, the LA can support the applicant into suitable accommodation that is likely to be available for at least 6 months. We will call this an 'informal offer' and it could be with applicant's family, or supported accommodation etc. If the applicant is in priority need, required standards of accommodation under this offer are higher than if they are not. The applicant will not necessarily know for sure at this stage whether they are in priority need meaning challenging standards of accommodation offers becomes more complex. This part of the Homelessness Reduction Act 2017 borders on the nonsensical.

Applicant accepts informal offer – not homeless decision issued.

If the applicant rejects informal offer, the homeless application duty continues as normal and it has no bearing on the main homelessness duty UNLESS the LA decides that the applicant has unreasonably refused to co-operate.

The LA can take the position that the applicant is deliberately and unreasonably refusing to co-operate, which ends the relief period immediately. The LA then makes s.184 decision, stating whether the person is homeless, eligible, in priority need, and not intentionally homeless, and does not make referral to another LA due to local connection status. If the applicant meets these tests, they will not get the main housing duty, but will instead get either a FAO or FP6O (see below).

If the applicant is not in priority need, no further duty will be owed except for the duty to provide advice and assistance. If the applicant is homeless, eligible, in priority need but intentionally homeless, short term accommodation duty will be owed under

At any point during the relief period, the LA can make a final accommodation offer (FAO) which is an offer of suitable private rented accommodation with at least a 6 month assured shorthold tenancy.

Applicant can request review of the suitability of the accommodation offered as a final accommodation offer. If they are unsuccessful, the council will not owe any further duties and the homelessness application effectively ends. Applicant can make a homelessness application to a different council or make a fresh application to the same council if there is a change in relevant facts

If they are successful in challenging the suitability of the FAO offer, the relief duty will recommence as normal

Applicant accepts FAO – not homeless decision issued

At any point during the relief period, council can make a final Part 6 Offer (FP60) which is an offer of suitable social housing.

Applicant can request review of the suitability of the accommodation offered as a FP60. If they are unsuccessful, the LA will not owe any further duties and the homelessness application effectively ends. Applicant can make a homelessness application to a different LA or make a fresh application to the same LA if there is a change in relevant facts

If they are successful in challenging the suitability of the FP6O offer, the relief duty will recommence as normal

Applicant accepts FP6O – not homeless decision issued

Applicant can source own private rented accommodation which the LA will likely be motivated to assist in terms of providing deposit / rent in advance

However, the LA does not have to make any offer in the relief period. The LA should reach a decision on day 57 of the relief period about what duty is owed, unless there is particular complexity, in which case the LA can take an additional 3 weeks to make a

If the applicant is not in priority need no further assistance needs to be provided, other than the usual duty to provide advice and assistance

Relief Dury ends

## Final Decision Stage

If the applicant is homeless, eligible, in priority need, not intentionally homeless and local connection is not an issue, the LA will owe the applicant the main housing duty (MHD) under s.193 which is either an offer of social housing through the hosuing register or and offer of a 12 month suitable AST in the private rented sector. The applicant can ask for a review of the suitability of this offer, but if they are unsuccessful, no further duty will be offered. The applicant will remain in temporary accommodation until this offer is made, which could take years. Average waiting times can be requested from the LA through the Freedom of Information Act

The council can also choose to engage with local connection at the main duty stage and refer the applicant to another LA if the referral criteria are met

At the main duty stage, the applicant can ask for a review of any decision that states they are either not homeless, not eligible, not in priority need, intentionally homeless or are being referred to another LA under s.198. If the applicant asks to be housed during this period and provides significant new information that was not considered in the decision, the LA must continue to accommodate pending the outcome of the review, which should take no longer than 8 weeks

If the applicant is homeless, eligible, in priority need, but intentionally homeless, the LA must continue to accommodate for a period of time that gives the applicant reasonable prospect of finding alternative accommodation.

There is nothing stopping an LA making other offers of accommodation at this stage provided the applicant understands the choice they have and the implications of each offer.

If the applicant is homeless, eligible, in priority need and not intentionally homeless, but has been judged to have unreasonably refused to co-operate, the main duty will be discharged through either a FAO or FP6O

If at any point during the process, the applicant secures suitable accommodation that is reasonable to continue to occupy themselves, they will no longer be homeless, and should make the LA aware. This will end the LA's duties.

If the not eligible decision is not challenged, or the review request / appeal process is unsuccessful, the applicant can make a fresh homelessness application if there is a change in circumstances to the issue at hand (i.e. in this case if the eligibility status changes)

If the not homeless decision is not challenged, or the review request / appeal process is unsuccessful, the applicant can make a fresh homelessness application if there is a change in circumstances to the issue at hand (i.e. in this case if the housing circumstances change significantly)

Council can treat the homeless application as closed if they lose contact with the applicant for at least 56 days. Individual can reapproach. However, many councils will issue a negative decision instead of closing the application, making it harder to make a fresh application

This is not legal advice.

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If the applicant does not ask for a review of a negative decision, or the review / appeal process is unsuccessful, the applicant can approach a different LA or make a fresh application to the same LA if there is a

significant change in relevant facts