

Tenant Fact Sheet 3

Homelessness

When does a Local Authority have responsibility to provide housing

There are 4 tests that must be satisfied before a Local Authority has a duty to provide you with accommodation.

You must be:

- Homeless or threatened with homelessness
- Eligible
- In Priority Need
- Not be Intentionally Homeless

In addition you must have a local connection.

When will I be considered homeless

You will be considered homeless if you do not have accommodation available for you to occupy because you have no legal rights of occupation. For example you do not have a tenancy or licence. If you are likely to be homeless within 28 days for example as a result of a possession order you would be considered homeless.

You could still be homeless even if you have a property to occupy. If you cannot stay in your home due to violence or a fear of violence, overcrowding or the physical condition of the property and it is not reasonable for you to continue living at the property you may still be homeless.

Am I eligible

You will not normally be eligible if you are a person from abroad and are subject to immigration control. However if you have refugee status, indefinite leave to remain, exceptional leave to remain or are in receipt of income based Job Seekers Allowance or Income Support you will be eligible.

When am I in Priority Need

A person will be in priority need if they:

- Have dependent children who normally reside with them
- Is vulnerable or lives with a vulnerable person (for example age or disability)
- Is pregnant or lives with a pregnant woman
- Homeless as a result of an emergency (for example a fire or flood)

When would the Local Authority say I was Intentionally Homeless

A local Authority may say that your homelessness is intentional if the loss of accommodation that was suitable for you to occupy was as a result of a deliberate act or failure to act on your part and it was reasonable for you to continue to occupy.

There must be a causal link between the act or omission on your part and the accommodation then ceasing to be available to you. For example it is not uncommon for a Local Authority to say that a person who is evicted because of rent arrears or mortgage arrears has made themselves intentionally homeless if there was no good reason for the non payment.

Local Connection

Even if you overcome the above hurdles you must also show that you have a local connection. You would have a local connection if you normally reside in the area, work or have family connections in the area. If you apply without a local connection a Local Authority may make a decision on your application and then refer you to a Local Authority with whom you do have a connection.

What is the Duty of the Local Authority

All applicants

- Accept all applications
- Make all necessary enquiries
- Notify an applicant of any decision in writing (written notice of a decision triggers the review procedures)

Applicant not found to be homeless

- No duty to provide accommodation

Applicant Homeless but not in Priority Need

- Duty to provide advice and assistance to help applicant find own accommodation

Homeless and in Priority Need

- Interim duty to provide accommodation
- Provide temporary accommodation whilst conducting enquiries

Homeless, in Priority Need but found to be homeless intentionally

- Duty to continue to provide temporary accommodation until the applicant has had sufficient time to find own accommodation.
- Duty to provide advice and assistance to help applicant find own accommodation
- Interim duty comes to an end

Homeless, in Priority Need and not Intentionally Homeless

- Full housing duty
- Ensure that accommodation becomes available

Full Housing Duty

When Local Authority is required to provide accommodation it must be suitable for the applicants needs and affordable. For a property to be suitable it must not be too far away from the applicants employment, be in good repair and not result in overcrowding.

A Local Authority may discharge its duty by allocating the applicant a property, allowing the applicant to bid for properties under a Choice Based Lettings Scheme or nominating to a Housing Association.

The full housing duty will however cease if an applicant refuses an offer, becomes homeless intentionally from temporary accommodation or ceases to be eligible.

Reviews and Appeals

Any decision by the Local Authority should be in writing and this will explain the arrangements for seeking a review of the decision that you may disagree with.

In the first instance you can ask the Local Authority to carryout a review. You must request this within 21 days of receiving the decision letter. A Local Authority may continue to provide temporary accommodation whilst the review is taking place.

If you were still not satisfied and your solicitor considered there were good grounds it is possible to appeal the decision of the Review Board by asking a County Court Judge to look at your application. The appeal must be lodged with the County Court within 21 days of receiving the decision of the Review Board.