

We're here to help you with your housing and homelessness queries.

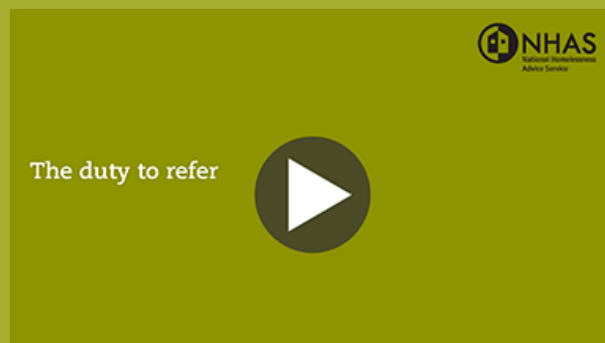
October 2018 eBulletin



Focus on: The Duty to Refer

The duty to refer came into force on the 1st October 2018, placing responsibility on various public authorities to refer people for housing assistance who are homeless or at risk of homelessness.

The new statutory duty is designed to allow housing authorities to 'catch' homelessness early, meaning there should be more time to devise an action plan for an individual facing homelessness. This, in turn, could and arguably should lead to fewer cases of homelessness, including fewer cases of street homelessness.



Find out more from our adviser Ewa in [our short film](#). We also have a [graphic](#) on the website which gives a very brief overview of the duty and what the process should be – may be useful for those you're talking to about the duty. Both of these, plus the [guidance from the MHCLG](#) and details of our [duty to refer webinar](#) can be found on the dedicated 'duty to refer resource' section on our website. Login and follow the links online.

News, updates and statistics

Access to justice

Ministry of Justice's LASPO Part 1 post implementation review - [Law Society response](#)

Legal aid and victims of domestic violence

This report looks at the [impact of legal aid capital](#) and contribution thresholds for victims of domestic violence

Legal aid and housing cases

On 27 September 2018 the Ministry of Justice published [legal aid statistics](#) for April to June 2018. In that period, there were 10,000 legally aided housing cases costing £6 million.

Standard Civil Contract (Housing Possession Court Duty Scheme) 2013

[Contract documents](#) for providers delivering Housing Possession Court Duty Schemes.

Legislative Reform (Regulator of Social Housing) (England) Order 2018

This [Legislative Reform Order](#), which came into force on 1 October 2018, establishes the Regulator of Social Housing (the Regulator), and transfers the functions of regulating the social housing sector from the Regulation Committee of the Homes and Communities Agency (the HCA) to the Regulator.

What is affordable housing?

This briefing paper considers how [affordable housing](#) is defined in England and looks at key trends in the affordability of different tenure types.

Overcrowded housing (England)

This briefing paper explains the current [statutory overcrowding standard](#) in England, efforts to update the standard, and Government approaches to tackling the problem.

Implementation of the Housing and Planning Act 2016

The [Housing and Planning Act 2016](#) (HPA 2016) received Royal Assent on 12 May 2016. This briefing paper outlines progress in implementing the Act's provisions. Several key measures in the Act will not be taken forward, such as 'pay to stay' and mandatory fixed-term tenancies for local authority landlords in England.

Bailiffs

This Commons Library [briefing paper on bailiffs](#) summarises recent changes to the regulation of bailiffs, and attempts to answer the most common questions about bailiff action.

Universal Credit: why are sanction rates higher?

Sanction rates are higher under [Universal Credit](#), the Government's flagship welfare reform, than under the benefits it is replacing.

Pensions guidance: Pension Wise

Looks at [Pension Wise](#) - the guidance service for people aged 50 and over with defined contribution pension savings.

Pensions dashboard

Looks at the debate on the [pensions dashboard](#) which is being developed to enable people to view all their lifetime pension savings (including their state pension) in one place.

Individual Voluntary Arrangements (IVAs)

Published Wednesday, October 3, 2018, this Commons briefing paper provides an [overview of Individual Voluntary Arrangements \(IVAs\)](#).

Housing for older people

The [government response](#) to the Select Committee report.

News article from Brent council

[Officers raid](#) illegally-run 3-bed rental property and find 26 bed spaces.

What's new on Shelter legal?

- [Restrictions on eligible rents: Social rented sector tenants](#)
- [Action by occupiers](#)
- [Statutory control of service charges](#)
- [Section 21 notices](#)
- [The regulator of social housing](#)

Case Law

Prefeta (Accession - Freedom of movement for persons - Judgment) [2018]

EUECJ C-618/16

Time spent by 'A8' nationals working in breach of the Worker Registration Scheme (WRS) does not count towards acquiring a permanent right to reside in the UK. An A8 national who was required to work under the WRS but failed to register did not have the status of 'worker' for the purpose of the definition of 'qualified person' under the Immigration (EEA) Regulations. This in turn meant that s/he had no right of residence and was working in breach of the Immigration Rules. The WRS itself was lawfully adopted by the UK.

NB: In November 2017 the Court of Appeal in *Secretary of State for Work and Pensions v Gubeladze* [2017] EWCA Civ 1751 held that the extension of the A8 Worker Registration Scheme from 1 May 2009 to 30 April 2011 was unlawful. The government has been granted permission appeal this decision to the Supreme Court.

Lomax v Gosport BC [2018] EWCA Civ 1846

The local authority's decision that a severely disabled applicant was not homeless because it was reasonable for her to continue to occupy her current accommodation in an isolated and rural area did not satisfy the requirement under the public sector equality duty to 'focus sharply' on the applicant's specific disabilities, on the consequences of remaining in the current accommodation, and the need to take steps to meet different needs of disabled people.

Curo Places Ltd v Walker [2018] EWHC 2462 (QB)

Following allegations of noise nuisance against a tenant from a neighbour, such as shouting and swearing in her flat, slamming and banging on doors and being verbally abusive and using racist language, the landlord applied for possession under (discretionary) Grounds 12 (breach of an obligation other than to pay rent) and 14 (causing nuisance or annoyance) of Schedule 2 of the Housing Act 1988. The county court decided that it was not reasonable to make a possession order. The High Court upheld its decision. Although the tenant had breached her tenancy agreement in the past, the reasonableness assessment had to look at the likelihood of future breaches and their seriousness. A past criminal conviction for harassment did not bind the judge to make a possession order. In this case, some of the reasons for disturbance were unconnected with the respondent's behaviour, including noisy pipes, slamming doors and poor sound insulation, as well as ordinary household noise. The likelihood of the tenant breaching her the conditions of her tenancy in the future was being addressed through referring her to a behaviour management course.

Livewest Homes Ltd v Bamber [2018] EWHC 2454 (QB)

Where an assured shorthold tenancy granted by a housing association landlord for a fixed-term of two years or more contains a break clause, the landlord is not required to serve six months' notice (under section 21(1A) Housing Act 1998) that it will not be renewing the tenancy prior to serving a section 21 notice to terminate the fixed term. The operation of the break clause converts the fixed term to a statutory periodic tenancy, which can be brought to an end with the service of two months' notice under section 21. In this case, the section 21 notice could also operate the break clause (*Fawaz v Aylward* (1997) 29 HLR 408) as the break clause required less than two months' notice.

Kirklees MBC v JM [2018] UKUT 219 (AAC)

The payment of a continuous cruiser licence fee (for a narrow boat on the canal system) is not eligible for housing benefit.

LGSCO complaint against Doncaster MBC (17 013 347)

The local authority has agreed to the Ombudsman's recommendations to complete the necessary work for a family who had been waiting for three years for adaptations to their home to allow them to better care for their disabled son. In addition, it will review its policies and procedures.

LGSCO complaint against London Borough of Hounslow (16 009 664)

The local authority has agreed to the Ombudsman's recommendations to apologise and make amends to the family of a man with mental health problems who was forced to sleep on his parents' sofa for 18 months because the council failed to develop a care and support plan for him. It also failed to assess his mother's needs as his carer. The authority will change its processes to avoid other people being similarly affected.

Housing Matters

This month's Housing Matters focuses on:



- Time to go home options for people who are ready to be discharged from hospital but who have no home or no suitable home to go to.
 - How the new duty of a public authority may assist some of those patients
- HMOs licencing new rules
- Personal housing plans (PHPs) factsheet
- What's new page brings you up to date with various items of news related to housing and homelessness including a summary of the 1 October 2018 changes to the rules affecting section 21 notices.

Sign up to receive the bi-monthly publication by emailing: nhas@shelter.org.uk

Service updates

The autumn NHAS roadshow, The Homelessness Reduction Act: Challenges, learning and working together, proved to be a resounding success. Thank you to all our speakers and all who attended. If you attended and haven't completed the evaluation survey please do as your feedback is invaluable in helping us to make sure our events continue to meet your needs.

Presentations, John Gallagher's legal update video and a round up of highlights from the events can be found on the 'NHAS roadshow resources' section of the website, once you've logged in.

Watch this space for details of our spring roadshow!

Information

Factsheet updates

- [Applying as homeless: offers of accommodation](#)
- [Applying as homeless: suitable accommodation](#)
- [Tips on temporary accommodation](#)

Training

Changes to the training booking system

If you have booked onto a scheduled course via our website lately, you will have noticed a few changes. This is because we're now on a new booking system. The only thing that is different for you is the way you book onto a course – you now need a User ID, which you can register for when you make your first booking. What's good about this new system is that you can see what spaces are available for each course, as soon as you log in. Making long email trails to find out, a thing of the past!

Don't get left behind - make sure you are kept up to date with new developments to the free housing training programme available to you – email nhas@shelter.org.uk to join the mailing list.

Consultancy Line

Specialist housing debt advisers

Have a question regarding your client's mortgage arrears or housing costs related welfare benefits issues? NHAS members can contact our specialist advisers for free advice.

Webchat facility

Access to housing consultancy via Webchat is a popular way for members to get free advice. Webchat is accessed by going to <http://www.nhas.org.uk> and clicking on the 'live chat' button at the top of the screen.

Thank you for reading,

The team at NHAS

Who we are

We are here to help local authorities, local citizens advice, public authorities and advice agencies with their housing and homelessness queries. Working together with the aim of preventing homelessness, we give expert advice, training and support to those working at the frontline

Our telephone consultancy service is open 9am – 6pm Monday to Friday, our trainers deliver training courses across the whole of England and our website holds a wealth of information, including past eBulletins, factsheets and guides to assist you with your housing and homelessness queries. You can find out more here: www.nhas.org.uk

You are on the NHAS mailing list

If you'd like to be added to or removed from our distribution list, or have problems accessing any of the materials in the bulletin, please email nhas@shelter.org.uk

Please remember to add nhas@shelter.org.uk to your email address book to ensure that our emails are not placed in your junk mailbox.

NHAS is funded by the Ministry of Housing, Communities and Local Government. We support the prevention of homelessness by enabling frontline providers to deliver good quality housing and homelessness advice.