



Homelessness

Fact sheet no. 10 EW Homelessness

December 2019

Use this factsheet to:

- work out what housing you might be able to get;
- help you understand when you can get help;
- understand the process the council must follow; and
- deal with the problems you may face in trying to get rehoused.

In partnership: with NHAS and Citizens Advice



We would like to thank the National Homelessness Advice Service (NHAS) and Citizens Advice for their help with the writing of this fact sheet.

Help from the council

In England, the rules that councils must follow are set out in **Part VII** of the **Housing Act 1996**. On **3 April 2018**, some of the legislation in the **Housing Act 1996** was replaced by the **Homelessness Reduction Act 2017**.

In Wales, the rules that councils must follow are set out in the **Housing (Wales) Act 2014**. Although England and Wales have slightly different legislation, the rules councils must follow are very similar.

Councils use this legislation to work out what help to give you if you are either threatened with homelessness or are homeless.

The law uses special terms. These include:

- eligible for help;
- in priority need;
- intentionally homeless; and
- a local connection.

These are explained in the following sections.

Who is eligible for help?

You will be treated as eligible for help unless you are 'a person from abroad'. Certain categories of people who are classed as a 'person from abroad' can be eligible, for example if you have:

- refugee status;



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- settled immigration status; or
- exceptional leave to enter and remain.

European Union (EU) nationals

The rules about EU nationals who are eligible for help are complicated. If you are an EU national you may be eligible if:

- you are already working in the UK;
- you are self-employed;
- you have been in the UK for a long time and have established a permanent right to reside;
- you are temporarily unable to work due to illness, an accident or you are pregnant but you have worked in the past;
- you are a family member of an EU national; or
- you are ineligible but you care for a child of an EU national. You may sometimes be eligible in order to continue to care for the child.

Information:



seek specialist advice.

The rules on eligibility are very complex. If you have recently come into this country or are a national of another country, you need to seek specialist advice.

You can get further advice from www.shelter.org.uk, or a local Shelter advice service. If you have nowhere to sleep tonight, are at risk of harm or losing your home within the next 2 months, call Shelter Helpline on 0808 800 4444 for advice and information on your options.

This is not a full list of why you might be eligible for assistance in the UK. Contact Shelter for more information, see **Useful contacts** at the end of this fact sheet.

Who is in priority need?

The council will say you are in priority need if:

- your household includes someone who is pregnant;
- you household includes dependent children;
- you are vulnerable (for example, because of old age or a mental or physical disability), or your household includes someone who is vulnerable;
- you are vulnerable because of domestic violence or another type of violence; or
- you are homeless because of an emergency such as a flood, fire or other disaster.

This is not a complete list of why the council might class you as in priority need. If you think you are in priority need because of another reason, check with your local council to see if this means they can help you.

Young people

Aged 16 or 17

If you are homeless, in most cases you are classed as a 'Child in Need' and are the responsibility of social services. This also applies if you have left foster care. Social services should take your wishes into account and should not offer foster care as a homelessness solution if this is not necessary.



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Contact the homeless department of your local council who should provide emergency 'interim' accommodation to make sure you are safe. They will speak to social services. The council and social services will decide between them which department should help you in the longer term.

Who is intentionally homeless?

You are intentionally homeless if all of the following apply:

- you deliberately do or don't do something which caused you to be homeless by leaving your accommodation (unless it was done, or not done, in good faith);
- the accommodation was otherwise available for you to live in; and
- it was reasonable for you to keep living there.

The council may decide you are intentionally homeless if:

- you had somewhere else that was reasonable for you to live, but you chose to leave or to give up the property;
- you are leaving somewhere where you can continue to live, and you are only leaving to get some help from the council;
- you have contrived your eviction (meaning you have arranged with your landlord that they tell you to leave); or
- you took on a new tenancy or mortgage even though you knew you could not afford the rent or mortgage payments at the time, and you have now lost your home due to arrears.

There are other reasons the council could decide you are intentionally homeless, for example, if you were evicted because of anti-social behaviour. If you are not sure whether you have made yourself intentionally homeless, contact Shelter for more information. See **Useful contacts** at the end of this fact sheet.

You should not be intentionally homeless in the following situations.

- You left home because you felt threatened with violence.
- Your home was repossessed due to arrears which arose because you could not afford to pay your rent or mortgage, but you were able to afford the payments when you moved in. You need to show you were in financial hardship and there was no way your income could cover your rent or mortgage payment.
- The conditions in your home were so bad that you could not remain and it would have been unreasonable to expect you to stay.
- You lost your home through someone else's actions which you did not know about or had no control over.

Extra advice:



living in Wales

If you live in Wales, each council can usually choose whether or not to apply the intentionally homeless rules when deciding whether they should help you.

Although, from **2 December 2019**, all councils in Wales have a duty to secure accommodation for certain households who are in a priority need, even if they are considered intentionally homeless. This usually includes households containing a pregnant person, dependent child or an adult under age 21 (or under age 25 if previously in care).

If you are unsure which rules your council should follow, contact Shelter Cymru. See **Useful contacts** at the end of this fact sheet.



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If the council decides you are intentionally homeless and you are a family with dependent children, the council can refer you to social services for help. You have to agree to the referral first. Social services have the power, under **Section 17** of the **Children Act 1989**, to assist you with finding accommodation, perhaps by helping with rent in advance and a deposit. If the council says that they do not have to house you, then social services offer to house the children only. Any adults in the family will have to find their own accommodation. In this case you may be able to challenge a decision. Contact Shelter for more information, see **Useful contacts** at the end of this fact sheet.

Local connection

The council look at whether you have a connection to their area. If you have no local connection with the council where you have applied, you can be referred to an area where you do have a local connection instead.

What is a local connection?

You will have a local connection if you:

- have lived in the area for **six months** out of the last **year**, or **three** out of the last **five years**;
- work in the area;
- want to live near a close relative who has lived in the area for more than **five years**; or
- need to live in the area for a particular reason, such as you or your family needing to go to a certain school or use a hospital that is there.

If you have a local connection with the council you have applied to, as well as to another area, then you should not be referred to another council. If you have no local connection with the council you have applied to for rehousing, they may ask another council to help you, unless there is a risk of violence to your household if you return to the other council's area.

If you have no local connection with another area (for example, you may have just come from abroad), then the council you apply to first must help you.

Information:



armed forces

You will be treated as working in the area if you are serving in the armed forces.

Care leavers

If you are leaving care and do not have somewhere to live, you are entitled to help from the council. The council call this 'leaving care duties'. You are considered to have as having a local connection with:

- the local authority that owes the leaving care duties;
- any authority in the country where you were looked after by the county council; or
- an authority in which you have lived for at least **2 years**, at least some of the time before you turned 16.

This kind of local connection will last until you are 21.



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Who is threatened with homelessness?

In England and Wales you are threatened with homelessness if:

- you are likely to be homeless within **56 days**; or
- you have received a valid **Section 21 (s21) notice** from your landlord that will run out within **56 days**.

When you are threatened with homelessness the council has a duty to try and help you. The council must try and help you, even if you are seen as intentionally homeless or if you are not in priority need.

It is important to know if you are threatened with homelessness, as the council have further duties to provide information and may have to carry out an assessment to help you further.

Where can I get information?

If you are threatened with homelessness, you should go to the housing department at the local council. The council must give advice to **anyone** that is homeless or threatened with homelessness. This advice is free.

The advice should tell you:

- what your rights are when you are threatened with homelessness;
- what help is available from the council; and
- how to get help.

The advice must be accessible to everyone. It should be designed to meet the needs of vulnerable people.

Will the council carry out an assessment?

The council have a duty to carry out an assessment with you if they think you are:

- homeless or threatened with homelessness; and
- eligible for help.

The assessment must look at:

- why you are homeless or threatened with homelessness;
- what your housing needs are; and
- what help you need to find and keep suitable accommodation.

The assessment must be in writing. You will be given a copy of the assessment. You and the council should then try to agree a personalised housing plan based on the assessment.



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You should be sent a copy of your personalised housing plan and there will be a copy for you at the council's housing office. The assessment needs to look at what steps you need to take and what steps the council are expected to take.

If you and the council don't agree with the assessment, the council must write down why you disagree. The assessment must include what steps they believe it would be reasonable for you to take and what steps it would be reasonable for them to take.

Information:



the assessment and personalised housing plan

The council should keep the assessment and personalised housing plan under review while you are threatened with homelessness or if you are made homeless.

What must the council do if I am threatened with homelessness?

If the council believe you are eligible for help under these rules, they have a duty to try and stop you being made homeless. The council's duty starts **56 days** before the date you are likely to be made homeless. The council are expected to take reasonable steps to prevent you from being made homeless or to help you keep your current home. The steps the council must take will be explained in your assessment. The steps might include:

- giving you advice on how to defend a repossession claim and try and save your home;
- mediation to try and keep families together; or
- help with a deposit to allow you to find alternative accommodation when your tenancy ends.

This is not a full list but gives some idea of the type of help the council might be able to give you.

The council's duty to prevent you from being made homeless can end sooner than **56 days** in some cases. Their duty could end early if:

- you find suitable accommodation that you can live in for a minimum of **6 months**;
- you deliberately refuse to co-operate with the assessment and the council think this is unreasonable;
- you refuse an offer of accommodation;
- you chose to withdraw from the process; or
- you become homeless (in this situation you will be able to get further help).

If the council want to end their involvement they must give you notice. This notice must explain why they are ending the help. It must explain how you can ask for a review.

Warning:



refusing an offer

Do not refuse an offer without getting advice first. It is probably safest to accept an offer and ask for a review if you think the accommodation is not suitable. That way, if your review is not successful, you can still keep the accommodation first offered.

Turning down any offer of accommodation, even if it is temporary, can mean the council have 'discharged' their duty. If this is the case, they do not have to help you any further.



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Section 21 (s21) notices

There are special rules if your landlord has given you a valid **section 21 (s21) notice**. The council must start to help if you are **56 days** from expiry date of the s21 notice. The council must carry on helping you, even if this takes longer than **56 days** for you to be evicted. They must continue to help you until they are satisfied you are homeless.

What are the council's duties if I am made homeless?

The council have a responsibility to help you if you are made homeless. The council must help you for **56 days** if:

- you are homeless; and
- you are eligible for help (see earlier section: **Who is eligible for help?**).

The council must take reasonable steps to help you find and take up accommodation. The council have a duty to help **all** eligible applicants, even if you are not in priority need, whether or not you have been found intentionally homeless. The steps both you and the council must take are explained in your personalised housing plan.

What help can you expect if you are homeless but not in priority need?

If you are eligible for help (see above) but do not have a priority need, the council must help you for **56 days** to try and find somewhere to live. This accommodation must be somewhere you can live for at least **6 months**. The help the council could give includes:

- making you an offer of accommodation;
- providing you with a rent deposit; or
- helping you to find affordable accommodation.

The council's duty to help you can come to an end if:

- you have found suitable accommodation that is likely to last for **6 months** or more;
- you refuse an offer of accommodation that is likely to last for **6 months** or more;
- the council believe that you have "deliberately and unreasonably refused to co-operate"; or
- you withdraw from the process.

The council must give you written notice that the process is coming to an end. They must also explain to you how you can ask for a review.

What help can you expect if you are homeless and in priority need?

When the council have reason to believe you are homeless, eligible for help and in priority need, they must provide you with interim accommodation. The council must do this until they have made a decision on whether you are in priority need. If you are intentionally homeless and in priority need, the council must provide you with temporary accommodation for a reasonable period. They must also offer you advice and assistance.

If the council offers you suitable accommodation and you refuse, they have no further duty to help you.



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If you refuse to co-operate with the steps in the personalised housing plan but you are in priority need, the council must offer you a “final accommodation offer”. This can be a tenancy with a private landlord. This is usually called an assured shorthold tenancy. There are more details about this type of tenancy in the later section .

Duty of public authorities

You can be referred to the council for help with housing by other public bodies. Public bodies could be hospitals, prisons, schools or GPs. They can only do this if they believe you are at risk of becoming homeless and they have your permission to do so. You can choose which council you are referred to.

Other housing options

The council waiting list

You can go on the waiting list at the same time as applying for rehousing as a homeless person.

Councils have to have a scheme for deciding who can join the council waiting list. Individual councils have the power to decide who can join their list and why.

Reasons that someone may not be able to join a waiting list include the following.

- Immigration status (this could prevent you from joining any waiting list).
- Unacceptable behaviour, for example, serious anti-social behaviour or having previous rent arrears.

All schemes must give priority when allocating council housing to certain groups of people. This is called 'reasonable preference'. Individual councils can choose who they give reasonable preference to. You may be given reasonable preference if:

- you live in overcrowded or unsanitary accommodation;
- you live in temporary or insecure accommodation;
- you live with dependent children or you are a pregnant woman;
- you live in a household with someone who needs settled accommodation because they are ill or disabled; or
- you find it difficult to get settled secure accommodation.

Someone who is single and already has somewhere to live may wait a long time to be offered accommodation or may be excluded from some scheme lists altogether.

What if I disagree with the council's decision?

You can ask the council for a review if they will not let you on their waiting list.

The deadline for requesting this type of review is normally **21 days**. **Contact us for advice**.



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Housing associations

Housing associations may be able to offer good accommodation at an affordable rent. Some will only let you apply if you already have your name on the council waiting list. In some areas housing associations and the council operate a joint waiting list. If this is the case, you will not need to apply individually to each housing association. Ask the housing association what rule applies in your area.

Housing associations may have their own criteria of people who they will house first. Some associations are set up to help certain groups of people, such as the elderly or low-income families. The council should be able to give you a list of housing associations in your area. GOV.UK will provide details of your **local council's** website.

Private landlords

Private landlords often advertise on the internet, in the newspaper or in shop windows. Some choose to let the property through an estate agent or property agent. Agents will often run credit reference checks. If you have some adverse information (such as a CCJ) on your credit reference file, a private landlord may not agree to let you rent out their property.

If you decide to rent privately, look around first to find out what is on offer in your area and get an idea of what sort of rents are being charged.

You may need to find out from a local advice agency what maximum rents will be covered by Housing Benefit in your area. They may also keep lists of local landlords. Landlords who have a smaller amount of properties may be more likely to rent you a property if you receive Housing Benefit. They are also less likely to run credit checks on potential tenants. Have a look at the house before you agree to move in or hand over any money. Ask for a receipt for any money you pay as rent or as a deposit.

There are different types of private tenancy agreements. Your rights are affected by the type of tenancy you take and what sort of accommodation you have. Before signing an agreement with a landlord get advice from a local advice agency. Most private tenancies are assured shorthold tenancies. These will usually run for a minimum of six months. You can be evicted with a court order using a bailiff's warrant just because the tenancy has ended once the term of the tenancy has run out. Bailiffs are commonly known as enforcement agents.

Extra advice:



Help with rent

If you are on a low income, you might be able to claim Housing Benefit or the housing element of Universal Credit to help with your rent. The amount of help you can get depends on where you live and how many bedrooms you are entitled to. You can work out the maximum you are allowed at the Directgov website.

Remember:



paying your rent

If you receive Housing Benefit, this may not cover your rent payments in full. You should work out a budget before signing any agreements to make sure you can afford to 'top-up' your rent payments. If you are under 35 and live alone, you may have to top up more rent than if you were in different circumstances. For more information see www.gov.uk and type Housing Benefit into the search box.



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Help with deposits

In some areas rental deposits, or 'bond' schemes, have been set up to help people on a low income or benefits to find private rented accommodation. These schemes help with rental deposits. Under the scheme you do not have to pay a deposit up front and the tenancy agreement is with a landlord from an approved list. Your council may also help with rent in advance under their homelessness prevention powers. Schemes vary, so contact your local advice agency, local council or Shelter for more information. See **Useful contacts** at the end of this fact sheet.

You may also be able to get help in the following ways.

- Applying for Discretionary Housing Payments if you are already claiming Housing Benefit or the housing element of Universal Credit in your current accommodation.
- Applying for a budgeting loan or advance if you are on certain benefits. For more information about benefits check www.gov.uk. Type the name of the benefit you are looking for into the search box.
- Asking social services for help if you have children. Contact your council for details of your local social services department.
- Applying to the council's local welfare assistance scheme. Check with your local council if they still run one of these types of schemes.

From **6 April 2007**, any deposit you have to pay for a new assured shorthold tenancy must be protected under a government tenancy deposit protection scheme. Your landlord must tell you which scheme they have used to safeguard your deposit money until the end of the tenancy. The schemes can sort out disputes between you and your landlord. For more information see the government website www.gov.uk

Extra advice:



deposits that are not protected

If your landlord does not protect your deposit in time, you may be entitled to compensation. It may also prevent your landlord from evicting you in certain circumstances. **Contact us for advice.**

Useful contacts

Shelter

You can get further advice from www.shelter.org.uk, or a local Shelter advice service.

If you have nowhere to sleep tonight, are at risk of harm or losing your home within the next 2 months, call Shelter Helpline on 0808 800 4444 for advice and information on your options.

Shelter Cymru

For expert housing advice if you live in Wales.

Phone: 0800 049 5495

www.sheltercymru.org.uk



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Law Centres

There may be a law centre locally that deals with housing issues.

Phone: 020 3637 1330

www.lawcentres.org.uk

Local Citizens Advice

The address of your local Citizens Advice Bureau should be in the phone book.

You can also check the Citizens Advice website: www.citizensadvice.org.uk

Civil Legal Advice

To find a local housing solicitor.

Phone: 0345 345 4345

www.gov.uk/civil-legal-advice



National Debtline endeavour to keep our fact sheets as up-to-date as possible, however, we cannot be held responsible for changes in legislation or for developments in case law since this edition of the fact sheet was issued.

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