

# **The homelessness legislation:**

an independent review  
of the legal duties owed  
to homeless people

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## Foreword from Lord Richard Best



Over recent years Crisis has sustained its reputation for practical help and imaginative innovation in supporting people who are homeless. In particular, Crisis has focussed the spotlight on single people who can fall outside the main homelessness duty of local authorities. All too often the acute shortages of housing in so many parts of the country - and particularly in London - are felt most keenly by those with no legal entitlement to accommodation and an uncertain claim to be “vulnerable”.

A mystery shopping exercise by Crisis in 2014 found that in most cases single homeless people were getting a raw deal. Now, against a backdrop of an alarming rise in rough sleeping last year, an independent panel has been brought together by Crisis to produce this measured, considered analysis of ways in which the current position could be improved.

Drawing on the expertise of practitioners in the field, and taking on board lessons from the different approaches being tried in Scotland and Wales, the panel make a convincing case for new legislation. This could strengthen significantly the current duty for local authorities to provide the advice and practical support that can prevent “non-priority need” households becoming homeless. And legislation could ensure councils start this preventative work much earlier than the current 28 days before homelessness is imminent. These measures could in many cases avoid the costs and traumas of involving the courts and the bailiffs.

I hope very much that Ministers will consider this constructive report very carefully. If government is minded to proceed with new legislation—like the Welsh Act of 2014—I am sure this would be strongly supported by Parliamentarians of all persuasions. And we owe sincere thanks to the members of the Crisis panel who in this report have prepared the ground so admirably for a new Homelessness Bill.

## Foreword from the Panel Chair, Professor Suzanne Fitzpatrick



Homelessness legislation should serve as an important safety net to help protect some of the most vulnerable people in our society.

However, within legislation in England there exists a distinction between those who are considered ‘statutorily’ homeless and those who are not, predominately single people without dependent children, who often receive very little help to prevent or end their homelessness. This creates a two-tier system and often leads to single homeless people suffering very poor outcomes.

Over the last decade both Scotland and Wales have introduced new legislation to address this historical lack of provision for single people. The time has come for England to do the same, and ensure that anyone facing homelessness, regardless of household type is provided with meaningful support to help rebuild their lives.

As chair of the independent review, convened by Crisis, I would like to thank the other panel members who have given time and energy to examine the legislation and produce the alternative legal model set out in this report. Despite the different backgrounds and perspectives of experts on the panel, we have reached a consensus that we need to move away from a system which forces people to crisis point before they are able to receive any significant support. We are agreed as a panel that local government duties must be changed to ensure the provision of meaningful and effective preventative work for any household facing homelessness.

I am confident that our proposals will provide robust support to a far greater number of people at a much earlier point, and at the same time provide local authorities with more flexibility to deliver this within the resources that they have available. This will be crucial in helping local authorities, who are facing significant cuts, to more effectively tackle the rising levels of homelessness.

I submit this report to government and politicians for their consideration, and hope that the sound principles and thoughtful legal drafting in this report directly informs a new and more positive framework for homeless people.

# 1. Introduction

During Summer 2015 Crisis established an independent panel of experts from across the housing and homelessness sector, including lawyers, an academic, local authorities and housing association sector representatives, as well as homelessness charities, to assess the strengths and weaknesses of the current homelessness legislation in England.

The purpose of the review was also to consider and recommend legislative change in order to prevent and tackle single homelessness more effectively, while ensuring that the current entitlements for families and others who are assessed as in priority need and might be owed the main statutory homelessness duty were not undermined.

The panel considered the following questions:

- Could reforms be made to place a more effective and inclusive duty on local authorities to prevent and relieve homelessness?
- Are there elements of legal reform in Scotland and Wales that may be appropriate for England?
- What is required to ensure existing and future legal obligations are enforced?

The panel was chaired by Professor Suzanne Fitzpatrick (Heriot-Watt University) and included the following members:

- Veneeze Augustine, Homelessness Team Manager (Royal Borough of Kensington and Chelsea Council)
- Matthew Downie, Director of Policy and External Affairs (Crisis)
- Matt Garrett, Head of Housing Services (Plymouth City Council)
- John Gallagher, Principal Solicitor (Shelter)
- Jacqui McCluskey, Director of Policy and Communications (Homeless Link)
- David Orr, Chief Executive (National Housing Federation)
- Giles Peaker, Partner (Anthony Gold Solicitors)
- Gavin Smart, Deputy Chief Executive and Director of Policy and Practice (Chartered Institute of Housing)
- Anna Whalen, Youth Homelessness Advisor (St Basils)
- Dominic Williamson, Executive Director of Strategy and Policy (St Mungo's)
- Mike Wright, Head of Housing Choice (Salix Homes)

Panel members participated in an independent capacity and do not necessarily represent the views of the organisations they work for.

Following the panel's discussions, they sought the specialist legal advice of Liz Davies at Garden Court Chambers to draft the alternative legislation. Her legal opinion has been used to inform this report. The panel met from July 2015 to February 2016.

## 2. Homelessness legislation in England

The Housing (Homeless Persons) Act (1977) made local authorities responsible for the long-term rehousing of some groups of homeless people for the first time. The Act defined which groups of homeless people were considered to have a 'priority need' and therefore might be owed a statutory duty to be secured settled accommodation by local authorities. This is commonly referred to as the 'main homelessness duty'. The 1977 Act ushered in a transformative legal change for many homeless people but also created a longstanding distinction between those defined as priority need who are owed the main homelessness duty (predominantly families with dependent children) and those who are not (predominantly single people, including couples without dependent children).

### 2.1 Priority need

The homelessness duties in the 1977 Act were consolidated into the Housing Act (1996) (for England and Wales) and the definition of a household in priority need was specified as one including: a pregnant woman; dependent children; someone vulnerable as a result of old age, mental illness, handicap or physical disability or other special reason; as well as those made homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster.

This was expanded further in England by the 2002 Homelessness (Priority Need for Accommodation) (England) Order to include homeless applicants who are: aged 16 and 17 years old and not owed any duty as a child in care or a care leaver as set out in the Children Act 1989; aged under 21 years old who were in local authority care between the ages of 16 and 18; aged 21 and over who are vulnerable as a result of leaving local authority care; vulnerable as a result of leaving the armed forces; vulnerable as a result of leaving prison; and vulnerable as a result of fleeing domestic violence or the threat of domestic violence.

For applicants whose claim to priority need status rests on being "vulnerable as a result of..." (as in many of the categories above) local authorities have discretion in determining whether they are vulnerable enough to qualify for the main homelessness duty.

### 2.2 Statutory homelessness

In addition to being assessed as in priority need there are a number of other criteria an applicant must meet in order to qualify for the main homelessness duty. The local authority first needs to establish whether the applicant is homeless or threatened

with homelessness. An applicant is considered homeless if they have no accommodation that is available for them either in the UK or elsewhere, in which they can live together with their family. A person is also considered to be homeless if it is not reasonable for them to continue to live in their existing accommodation. It is not considered reasonable for an applicant to do so if, for example, there is a threat of violence, or if accommodation is in a very poor condition or if they are experiencing severe overcrowding. An applicant would be assessed as threatened with homelessness if it is likely that they will lose their home within 28 days. If an applicant is found to be eligible, homeless and at this stage assessed as likely to be in priority need then the local authority has a responsibility to provide them with interim accommodation before they complete the rest of their enquiries.

### 2.3 Eligible for assistance

The local authority will then need to establish whether the applicant is eligible for assistance, before conducting a more detailed assessment. An applicant will need to be a British citizen or have a right to remain and/or be 'habitually resident' in order to qualify. Certain

applicants from outside the UK will not be eligible for housing assistance.

### 2.4 Intentionality

The local authority will then establish whether or not the applicant is unintentionally homeless (i.e. whether they became homeless through no fault of their own). An applicant will be deemed to be intentionally homeless if they have done anything or failed to do anything deliberately, which results in them losing their home.

### 2.5 Local connection

For the purposes of the homelessness legislation, households can have a local connection with a particular local authority because of normal residence, employment or family associations, or because of special circumstances. If a household owed the main homelessness duty has no local connection with the authority to which they have applied, the duty to secure settled accommodation for them can be transferred to another UK authority with which they do have such a connection (except if they run the risk of violence in that other area). Any interim duty to accommodate remains with the original authority.

## 2.6 Duties

The local authority which accepts the duty to a household owed the main homelessness duty must secure that suitable settled accommodation becomes available to them, providing suitable temporary accommodation in the interim. In most cases the main homelessness duty is discharged via an offer of social housing, but changes brought in under the Localism Act (2011) enable local authorities to also discharge this duty via a fixed-term assured shorthold tenancy in the private rented sector with a minimum term of 12 months so long as it meets certain other conditions. This is often referred to as a 'private rented sector offer' (PRSO).

Applicants who are homeless, eligible for assistance, and are in priority need but are intentionally homeless are entitled to short-term temporary accommodation for such period to give them a reasonable opportunity of securing alternative accommodation (usually 28 days).

For all other applicants, including those who are homeless, eligible, unintentionally homeless and have a local connection but are not in priority need, the local authority only has a duty to provide advice and assistance.

## 3. The impact of the current legislation on single homeless people

The intention of the current homelessness legislation is to limit entitlement to settled accommodation to those households considered to be most vulnerable and victims of circumstances beyond their control. However, a significant number of homeless applicants, particularly single people, have no right to accommodation or adequate help to prevent or relieve their homelessness, even if they are sleeping rough.

Between April 2014 and March 2015 fewer than half (48% - 54,430) of those who made a homelessness application were owed the main homelessness duty.<sup>1</sup> Overall, one quarter of applicants (28,518) were found not to be homeless<sup>2</sup>, eight per cent (8,990) were deemed to be intentionally homeless<sup>3</sup>, and a further 18 per cent (20,420) were considered not to be in priority need so not owed the main duty.<sup>4</sup>

A greater proportion of applicants owed the main homelessness duty are families with dependent children compared to

single applicants. Of the applicants who were owed the main duty in 2014/15, 72 per cent were households with dependent children and only 22 per cent were single applicants.<sup>5</sup>

### 3.1 Assessing vulnerability

Local authorities have discretion to determine whether a single household is considered sufficiently vulnerable (based on the criteria set out above) to be in priority need.

The test case that has played a key role in how the vulnerability threshold was applied was *Pereira v Camden Council* (1998). The case gave rise to the 'Pereira Test', which stated that a person is vulnerable "if their circumstances are such that they would suffer more when homeless than 'the ordinary homeless person' and would suffer an injury or other detriment that the ordinary homeless person would not." Recent cases further restricted this definition, to

1. Department for Communities and Local Government (DCLG) (2016), Statutory homelessness live tables, Table 770: decisions.
2. Ibid.
3. Ibid.
4. Ibid.
5. DCLG (2016), Statutory homelessness live tables, Table 780: accepted household type.

the point where the comparator was “an ordinary street homeless person.”<sup>6</sup>

Homeless Link’s Health Needs Audit found that the physical and mental health conditions of homeless people were significantly worse than the general population.<sup>7</sup> Physical health problems were reported by 78 per cent of those surveyed, with 44 per cent reporting long term health problems. Forty four per cent had been diagnosed with a mental health problem, with nearly double (86%) reporting one. Research commissioned by Crisis in 2014 found that the average age of death for people who die homeless is 47 (43 for women), as compared to 77 for the general population.<sup>8</sup> The use of the people who are already homeless as a comparator therefore set the bar of vulnerability very high.

Over the past decade the proportion of applicants accepted as homeless because they are vulnerable has fallen from 38 per cent of all acceptances in

2004/05 to 26 per cent of acceptances in 2014/15.<sup>9</sup> In part this has been due to the move to homelessness prevention strategies by local authorities since the 2002 Homelessness Act and the *G v Southwark* judgement (2009). This ruling has resulted in the primary duty to accommodate homeless 16 and 17 year olds falling to Children’s Services. The accommodation outcomes of this group are no longer recorded by housing departments through their statutory homelessness (PIE) data returns.

Last year Crisis and Shelter, along with the Department for Communities and Local Government (DCLG) intervened in a case in the Supreme Court to provide specialist evidence to argue that the application of the test for vulnerability was flawed.

Following this intervention the Supreme Court ruled that:<sup>10</sup>

- local authorities must now consider how vulnerable someone is compared to the ordinary person

facing homelessness, not someone who is already homeless;

- a lack of resources should not affect a local authority’s decision about whether or not someone is considered a priority for housing; and
- local authorities will no longer be able to rely on statistics relating to the overall homeless population to help them to assess whether someone is more vulnerable than the ordinary person facing homelessness.

This ruling should have marked an important development in terms of defining vulnerability, but its impact appears to be limited. The last release of statutory homelessness statistics showed that the proportion of applicants accepted as homeless and deemed vulnerable remained fairly steady at 26 per cent.<sup>11</sup> As part of the latest Homelessness Monitor England 2016 report, local authorities were asked about the implications of the ruling, and whether it is likely to mean that a higher proportion of their single homeless applicants will be accepted as being in priority need as a result. Just over half

of councils anticipated that the ruling would have little impact on their practice (51%), while about one third (34%) felt that it would make some slight impact.<sup>12</sup>

### 3.2 The provision of advice and assistance

The demarcation between applicants who are owed the main homelessness duty (predominantly families with dependent children) and those who are not (predominantly single people) has created a two-tier system with regards to the assistance provided. For homeless applicants who are not owed the main homelessness duty, they will generally only be entitled to advice and information.

In 2014, Crisis conducted a mystery shopping exercise to examine the treatment of single homeless people who approach their local authority for help and the quality of the advice and assistance they receive.<sup>13</sup> In only 37 out of the 87 visits, local authorities made arrangements to accommodate

6. *Osmani v Camden London Borough Council* (2004).

7. Homeless Link (2015), Health Needs Audit data tool, available at: <http://www.homeless.org.uk/facts/homelessness-in-numbers/health-needs-audit-explore-data> (based on a survey of 3,335 respondent, 93 per cent of whom were in emergency, hostel or supported accommodation, sofa surfing, rough sleeping or squatting).

8. Thomas, B. (2012), *Homelessness Kills: An analysis of the mortality of homeless people in early twenty first century England*, London: Crisis.

9. DCLG (2016), *Statutory homelessness live tables, Table 773: reason for acceptance*.

10. *Hotak (Appellant) v London Borough of Southwark (Respondent), Kanu (Appellant) v London Borough of Southwark (Respondent), Johnson (Appellant) v Solihull Metropolitan Borough Council (Respondent) Crisis & Shelter, EHRC, SS for CLG interveners* [2015] UKSC 30 <https://www.supremecourt.uk/cases/uksc-2014-0230.html>.

11. DCLG (2016) *Statutory homelessness live tables, Table 773: reason for acceptance*

12. Fitzpatrick, S., Pawson, H., Bramley, G., Wilcox, S. and Watts, B. (2016), *The homelessness monitor: England 2016*, Institute for Social Policy, Housing, Environment and Real Estate, Heriot-Watt University; Centre for Housing Policy, University of York; City Futures Research Centre, University of New South Wales, London: Crisis.

13. Dobbie, S., Sanders, B., Teixeira, L. (2014), *Turned Away, the treatment of single homeless people by local authority homelessness services in England*, London: Crisis.

mystery shoppers that evening, either through the provision of emergency accommodation or because they had negotiated for them to return to their previous address.

In the remaining 50 visits, most of which were in London, Crisis found that they received inadequate or insufficient help. It was common for mystery shoppers to simply be signposted to written information about renting privately or even turned away without any help or the opportunity to speak to a housing adviser. In a significant number of visits (29) mystery shoppers did not receive an assessment and were not given the opportunity to make a homelessness application. It is the view of the panel that the support provided to single homeless people must be much more effective.

### 3.3 Local authorities' ability to respond to homeless households

Following the introduction of the Housing Options approach in 2003 the number of people accepted as

statutorily homeless and therefore owed the main duty started to decline. More recently however, there has been a steady increase in the number of 'homelessness acceptances', which were 14,000 higher across England in 2014/15 than in 2009/10.<sup>14</sup> During the same time period the incidences of homelessness prevention and relief have increased since they started to be collected in 2009/10, albeit a small decrease was reported last year,<sup>15</sup> demonstrating that homelessness is growing at a much faster rate than the statutory homelessness statistics indicate. This prevention and relief activity sits outside the statutory framework. Whilst Housing Options can generate positive outcomes for those who are unlikely to be housed by their local authority because they do not meet the criteria for statutory homelessness, the concern is that in some cases it is being used to reduce the number of people accepted as homeless.

Furthermore, as Crisis' mystery shopping research showed, the advice and assistance provided is often very uneven in coverage, and for a significant number of single people, they receive no

14. Fitzpatrick, S., Pawson, H., Bramley, G., Wilcox, S. and Watts, B. (2016) *The homelessness monitor: England 2016*. Institute for Social Policy, Housing, Environment and Real Estate, Heriot-Watt University; Centre for Housing Policy, University of York; City Futures Research Centre, University of New South Wales, London: Crisis.

15. DCLG (2015), *Homelessness prevention and relief live tables. 2014/2015 Table 787: Outcome of homelessness prevention and relief*.

help at all. This problem is compounded by the lack of a compulsory and audited quality framework or inspection regime for Housing Options and homelessness services to ensure that they meet their responsibilities as outlined in legislation and the Code of Guidance<sup>16</sup> or that they are delivered consistently across all local authorities. For local authorities who do carry out effective prevention work, this sits outside the statutory framework, potentially leaving themselves open to legal challenge on grounds of gatekeeping.

Within the statutory framework, there is little evidence of prevention work taking place. An applicant is currently only assessed as threatened with homelessness if they are likely to become homeless within the next 28 days. This provides a local authority with very little time to carry out significant meaningful prevention work. Of the 54,520 households who were owed the main homelessness duty in 2014/2015, 62 per cent were placed in

temporary accommodation. At the end of 2015 (Q3), 68,560 households were living in temporary accommodation.<sup>17</sup> Eight per cent were immediately housed in settled accommodation.<sup>18</sup> Only 28 per cent of households however, were able to remain in their existing accommodation for the foreseeable future.

Building on the advantages of a Housing Options approach, the Panel's view is that this work should be brought within the statutory framework and a much stronger duty placed on local authorities to prevent homelessness at an earlier stage.

16. DCLG (2006), *Homelessness Code of Guidance for Local Authorities*, London: DCLG

17. DCLG (2016), *Live Homelessness statistics, Table 782: household type in temporary accommodation*.

18. DCLG (2016), *Live Homelessness statistics, Table 777: immediate outcome*.

## 4. Recent changes to homelessness legislation in the UK

### 4.1 Scotland

Both Scotland and Wales have introduced legislation to address the lack of entitlements for single homeless people. The governing legislation for homelessness in Scotland is the Housing (Scotland) Act (1987). A major amendment to this in the Homelessness etc. (Scotland) Act (2003) abolished priority need criteria altogether. Since December 2012, local authorities in Scotland have had a duty to secure settled accommodation for all eligible applicants who are unintentionally homeless.

In preparation for the final abolition of priority need, in 2010 the Scottish Government began promoting prevention measures far more strenuously in an effort to reduce statutory demand. These prevention measures are modelled on the English Housing Options approach.

Since 2010, local authorities in Scotland have also had the option to discharge their duty to find settled accommodation for all eligible applicants who are unintentionally homeless in the private rented sector with tenancies of at least

12 months, in certain circumstances. In Scotland, the private rented sector however, is rarely used to prevent or resolve homelessness by comparison to England.<sup>19</sup>

Statutory homelessness peaked in Scotland in 2005/06, having grown as a direct result of the gradual expansion in the priority need categories post the 2003 Act, and has been reducing for the past five years. This is largely due to the introduction of the Housing Options approach. In 2014/15 Scottish local authorities recorded 35,764 homelessness applications, of which 28,615 were assessed as statutorily homeless.<sup>20</sup> The total number of applications has fallen by 37 per cent since 2009/10. In the most recent year, total applications fell by four per cent while 'assessed as homeless' cases dropped by five per cent.<sup>21</sup>

After a steady and substantial increase in the years to 2010/11, Scotland's temporary accommodation placements have subsequently remained fairly steady.<sup>22</sup> Most temporary accommodation placements in Scotland are in social housing stock, though single person

19. Fitzpatrick, S., Pawson, H., Bramley, G., Wilcox, S. and Watts, B. (2015), *The homelessness monitor: Scotland 2015*, Institute for Social Policy, Housing, Environment and Real Estate, Heriot-Watt University; Centre for Housing Policy, University of York; City Futures Research Centre, University of New South Wales, London: Crisis.

20. Ibid.

21. Ibid.

22. Ibid.

households are more likely than families to be housed in non-self-contained temporary accommodation, such as hostels and Bed & Breakfast hotels.<sup>23</sup> Local authorities across Scotland have reported substantially lengthening periods of time spent in temporary accommodation.<sup>24</sup> The Panel came to the view that introducing a model similar to Scotland would, in the context of the English housing market, place significant and unrealistic burdens on permanent social housing and temporary accommodation stock, particularly in London and the South East.

### 4.2 Wales

The Housing Act (1996) was the governing legislation for homelessness in Wales until it was superseded by Part 2 of the Housing (Wales) Act (2014). The majority of the new homelessness provisions came into force on 27 April 2015.

Prior to the introduction of the new legislation, the Welsh Government commissioned an independent review

which identified two fundamental weaknesses with the existing legislation.<sup>25</sup> First, that a growing emphasis on preventative 'housing options' interventions sat uncomfortably alongside the statutory system, leading to concerns about both unlawful 'gatekeeping' and inconsistency in practice across Wales. Second, that very often no 'meaningful assistance' was made available to single homeless people.<sup>26</sup>

The key change brought in by the Housing (Wales) Act (2014) was a stronger prevention and relief duty for eligible homeless households regardless of priority need status. The new legislation also extended the definition of threatened with homelessness from 28 to 56 days, providing local authorities with a more realistic window of time within which to carry out meaningful prevention work. Crucially, the legislation is specific about the sorts of steps that local authorities should take, or at least explicitly consider, to demonstrate they have helped relieve

23. Fitzpatrick, S., Pawson, H., Bramley, G., Wilcox, S. and Watts, B. (2015), *The homelessness monitor: Scotland 2015*, Institute for Social Policy, Housing, Environment and Real Estate, Heriot-Watt University; Centre for Housing Policy, University of York; City Futures Research Centre, University of New South Wales, London: Crisis.

24. Ibid.

25. Ibid.

26. Mackie, P., Fitzpatrick, S., Stirling, T., Johnsen, S. & Hoffman, S. (2012), *Options for an Improved Homelessness Legislative Framework in Wales*, Cardiff: Welsh Government. <http://wales.gov.uk/docs/desh/publications/120131improvehomelessframeen.pdf>

or prevent someone's homelessness, making it possible for applicants to challenge a local authority that is insufficiently pro-active.

Welsh local authorities now have a duty to help to prevent homelessness for all eligible households threatened with homelessness within 56 days. While the prevention duty is subject to the availability of resources in the local area, it applies irrespective of priority need, intentionality or local connection status.

If the local authority is unable to successfully prevent an applicant from becoming homeless, or the applicant approaches when already homeless, then they have a duty 'to help to secure' them accommodation, often referred to as the relief duty. The local authority must conduct an assessment to find out: the circumstance under which someone has become homeless; the housing needs of the applicant and anyone they live with; and the support needs of all members of the household. The relief duty comes to an end after 56 days. The relief duty also applies regardless of priority need status and intentionality, but local connection criteria are applied if the applicant is likely to be in priority need.

If an applicant's homelessness has not been successfully relieved after 56 days and they are in priority need, have a local connection and are unintentionally

homeless, the local authority must secure that settled accommodation becomes available for them under the main homelessness duty. Importantly however, applicants who "unreasonably fail to cooperate" with relief assistance may not progress to the main homelessness duty to be secured accommodation.

The legislation also provides examples of what may be provided or arranged to secure or help to secure that suitable accommodation is available, or does not cease to be available for occupation by an applicant. These include:

- mediation;
- payments by way of a grant or loan;
- guarantees that payments will be made;
- support in managing debt, mortgage arrears or rent arrears;
- security measures for applicants at risk of abuse; and
- advocacy or other representation.

Under the new legislation local authorities are able to discharge their main homelessness duty via an offer of suitable accommodation in the private rented sector with a fixed term tenancy of at least six months minimum duration. They can also make an offer of social housing.

Welsh local authorities can also decide to disapply the test for intentionality for priority need groups. To date only the

Vale of Glamorgan has elected to do so, and even there only for young people.<sup>27</sup> The Welsh Government has made a commitment to remove the intentionality test for households with children by 2019.<sup>28</sup>

The new legislation, which predated the Supreme Court's ruling on the definition of vulnerability under English homelessness law, has also enshrined the Pereira test into statute. Single homeless people therefore have to demonstrate that they would be less able to fend for themselves than an ordinary homeless person who becomes street homeless in order to be assessed as in priority need.

The legislation has only been in place for one year, so it is difficult to assess the full extent of its practical impact. However, statistics from the Welsh Government provide some initial indications that the new model is working effectively to prevent homelessness and reduce the number of households who are in priority need and progress to the main homelessness duty.

Following the enactment of the legislation, the last six months of data (July to December 2015) showed that only 405 households in both quarters were owed a duty, a decrease of 67 per cent.<sup>29</sup> In the same period 3,605 households were provided with prevention assistance, of which 2,335 (65%) had a successful outcome. At the relief stage, 3,695 households were eligible for a duty to secure accommodation and 1,600 (43%) had a successful outcome. The success rates at both the prevention and relief stage are somewhat lower for single households (58% and 40% respectively) indicating it may be more difficult for local authorities to support and find appropriate accommodation for single households.

27. The Vale of Glamorgan Council has confirmed that the intentionality test will be applied for the main homelessness duty with the exception of the following two categories: Those aged 16 or 17 years of age; and 18-21 year olds who were looked after, accommodated or fostered at any time whilst under the age of 18. [http://www.valeofglamorgan.gov.uk/en/living/housing/public\\_sector/Homeless/Intentionality.aspx](http://www.valeofglamorgan.gov.uk/en/living/housing/public_sector/Homeless/Intentionality.aspx).

28. Welsh Government (2012), Homes for Wales. A White Paper for Better Lives and Communities. Cardiff: Welsh Government.

29. Welsh Government, Homelessness statistics {accessed: <http://gov.wales/statistics-and-research/homelessness/?lang=en>}

## 5. Our proposed alternative homelessness legislation

Following a review of the current legislation in England, particularly with respect to the implications for single homeless people, the Panel takes the view that the case for reform is strong. The homelessness legislation must be more inclusive and provide meaningful assistance to all homeless applicants. There is a need for prevention work to take place at a much earlier point, providing local authorities with greater flexibility in their approach. Furthermore, prevention work should take place within a statutory framework, making local authorities more accountable for the work undertaken. It is also vital that applicants are properly incentivised to engage at an earlier stage to reduce the personal costs of homelessness to the individual as well as the significant financial costs to national and local government.

After careful examination of divergent legislation in Scotland and Wales, and the existing evidence on implications and effectiveness, the Panel took the view that there were many aspects of the approach being taken in the latter that may have merit in the English context. We therefore sought to draft an alternative legislative framework, which could be achieved through a set of amendments to the Housing Act (1996).

Our new proposed legislative model would:

- place a stronger duty on local authorities to help to prevent homelessness for all eligible applicants regardless of priority need status, local connection or intentionality;
- extend the definition of threatened with homelessness from 28 to 56 days to provide local authorities with more flexibility to tackle homelessness at a much earlier stage; and
- place a new relief duty on local authorities requiring them to take reasonable steps to help to secure accommodation for all eligible homeless households who have a local connection.

This new model will create a more robust package of advice and assistance to prevent and relieve homelessness for all applicants regardless of priority need status. It is the view of the Panel that more effective and flexible early prevention work - based on a clearer set of expectations placed on both local authorities and homeless applicants - will also help reduce the number of people who are owed the main homelessness duty.

The full set of proposed amendments are included as an annex to this report.

### 5.1 How would this work?

#### 5.1.1 A stronger advice and information duty

Section 179 of the Housing Act (1996), the 'Duty of local housing authority to provide advisory services', requires local authorities to provide anyone within their area with advice and information in order to help prevent their homelessness. At present, Section 179 goes into no significant detail about the steps a local authority should take in order to fulfil this duty and as a result it is very difficult to legally enforce. The Panel therefore recommends that Section 179 should be amended to more closely mirror Section 60 of the Housing (Wales) Act (2014), 'Duty to provide information, advice and assistance in accessing help'. This clause is much clearer about the types of advice that could be provided. Furthermore, it sets out that a local housing authority must in particular work with other public authorities and voluntary organisations to ensure that the service is designed to meet the needs of groups at risk of homelessness. These groups include: people leaving prison or youth detention accommodation; young people leaving care; people leaving the regular armed forces; people leaving hospital after medical treatment for a mental health problem; and people receiving mental health services in the community.

The duty placed on local authorities to provide anyone in their area with advice and information would apply regardless of whether or not they are homeless or threatened with homelessness. It would therefore serve as an important early intervention service, which could for example help anyone experiencing problems with debt and unemployment etc. and might be at risk of homelessness. It also serves to provide assistance for applicants who are not eligible for housing support e.g. those who are not habitually resident.

#### 5.1.2 A homelessness prevention duty for all eligible households

The Panel recommends that the government should create a new prevention duty for anyone who is threatened with homelessness and eligible for assistance. Reflecting Section 66 of the Housing (Wales) Act (2014), local authorities would have to demonstrate that they have taken reasonable steps to help prevent a person becoming homeless. Measures that ought to be available in relevant cases could include mediation with private landlords, assistance with rent arrears and debt management.

In order to ensure that the new duty would be effective in preventing homelessness, Section 175 of the Housing Act (1996) should be amended to extend the definition of threatened

with homelessness from 28 to 56 days. This will enable local authorities to respond to the threat of homelessness at a much earlier point, providing them with a greater number of options to help prevent someone becoming homeless, and therefore a higher chance of success.

The loss of an assured shorthold tenancy (the default tenancy in the private rented sector) is the leading cause of homelessness, accounting for 29 per cent of those accepted as homeless in England and 39 per cent of those in London.<sup>30</sup> Landlords are required to provide tenants with two calendar months' notice when evicting them from their home. In this context, extending the definition of 'threatened with homelessness' to almost two months would enable local authorities to begin prevention work at a much earlier point, with greater chance of success. For example, if a landlord is evicting a tenant who is in rent arrears, this will require a local authority to intervene almost as soon as the Section 21 notice requiring possession or (in the case of a fixed term tenancy) the section 8 notice seeking possession is served. Assistance could include help to pay off rent arrears or mediation with the landlord to help the tenant remain in their home.

In addition, the Panel recommends that Section 175 'Homelessness and threatened with homelessness' should be amended to ensure that local authorities accept the expiry of a Section 21 eviction notice as proof that an applicant is homeless and would therefore be eligible for assistance under the relief duty (outlined below). The Homelessness Code of Guidance for Local Authorities already advises that it is "unlikely to be reasonable for the applicant to continue to occupy the accommodation beyond the date given in the Section 21 notice, unless the housing authority is taking steps to persuade the landlord to withdraw the notice or allow the tenant to continue to occupy the accommodation for a reasonable period to provide an opportunity for alternative accommodation to be found."<sup>31</sup> In her advice, Liz Davies stated however, that "local authorities... frequently decide that the applicant is not homeless at that stage. The proposed amendment to Section 175 (2A) [Homelessness and threatened with homelessness] would mean that there was no longer any consideration of whether or not it is reasonable for an applicant to continue to occupy after the date for possession."<sup>32</sup> Waiting until a possession order or bailiff's warrant

30. DCLG (2016), Statutory homelessness live tables Table 774: Reason for loss of last settled home.

31. DCLG (2006), Homelessness Code of Guidance for Local Authorities, London: DCLG

32. Liz Davies, Garden Court Chambers, Prospective amendments to the Housing Act (1996), Part 7.

has been executed places a costly burden on county courts, landlords and tenants. Furthermore tenants may accrue further rent arrears making them much more vulnerable to homelessness, and landlords less likely to let to homeless households or those at risk of homelessness in the future.

### 5.1.3 A relief duty for all eligible homeless people who have a local connection

If a local authority is unable to successfully prevent an applicant's homelessness, or if an applicant is already homeless when they approach the local authority, then there would be a duty to take reasonable steps to help secure accommodation for homeless households who are eligible for assistance and have a local connection. This could include providing local authority accommodation or arranging for an applicant to be housed in a fixed term tenancy with a minimum 12 month term in the private rented sector. In addition to providing accommodation, examples of how a local authority ought to help secure accommodation should be set out in legislation in order to create a robust and legally enforceable duty, but with enough flexibility for local authorities to be

able to tailor responses to specific homeless households' circumstances. Reflecting the Housing (Wales) Act (2014), the Panel recommends that these examples of potential interventions should include: mediation; payments by way of a grant or loan; guarantees that payments will be made; support in managing debt, mortgage arrears or rent arrears; security measures for applicants at risk of abuse; advocacy or other representation; and accommodation.

While this relief duty would be priority need and intentionality 'blind', in contrast to the proposed prevention duty outlined above, an applicant would have to have a local connection to the local authority area as currently defined in Section 199 of the Housing Act (1996), otherwise the local authority could refer the applicant to a local authority with which they do have such a connection. This would help to ensure that local authorities, particularly in areas of high demand, are not put under undue burden with regards to providing relief interventions to applicants from other areas.

The relief duty would last for a period of 56 days. This duty could be brought to an end before this time if the applicant was unreasonably refusing to cooperate with relief efforts (see below). It could also be brought to an end if an applicant had accepted or refused a suitable offer of accommodation or if the applicant had ceased to be eligible for assistance. For applicants in priority need, the local authority could bring the duty to an end before this time if they had taken all reasonable steps to relieve their homelessness. The applicant would then be eligible for assistance under the main homelessness duty.

#### 5.1.4 Incentivising applicants to engage in prevention and relief work

In order to ensure that a new legislative model works effectively, it is vital that applicants are incentivised to engage in effective prevention and relief work at the earliest stage. The Panel therefore recommends that a clause should be included in the new legislative framework which would allow local authorities to discharge the prevention and relief duty if an applicant unreasonably refuses to cooperate with a course of action that they and the local authority have agreed to undertake.

The refusal to cooperate provision, however, would only apply at the prevention and relief stage and could

not be used to prevent a household in priority need from accessing the main homelessness duty. The Panel did not however, reach consensus on this particular issue and some panel members proposed that the clause should apply to all households irrespective of priority need status in order to ensure all applicants are equally incentivised to engage in prevention work at the earliest point.

The Panel recommends that local authorities should only use the refusal to cooperate provision in very exceptional circumstances e.g. where an applicant had ceased all communication with the local authority over a sustained length of time. If a local authority is considering discharging either the prevention or the relief duty because an applicant is refusing to cooperate then they must send a letter to the applicant warning them that they are minded to cease to provide assistance. The letter should set out the reasons why the local authority intends to cease to provide assistance and a time period of no less than 14 days within which the applicant could re-engage. The Panel also recommends that provision should be made within this clause to allow the Secretary of State to prescribe (in regulations) grounds on which a person could not be deemed as unreasonably refusing to cooperate. This would be particularly important

in helping to ensure that the provision was only invoked in exceptional circumstances and not used as an inappropriate sanction.

#### 5.1.5 Emergency accommodation for homeless people who have nowhere safe to stay

The Panel recommends that a new duty should be placed on local authorities to provide emergency temporary accommodation for people who are homeless and have nowhere safe to stay. Under the current legislation, applicants who the local authority thinks are likely to be in priority need are entitled to interim accommodation until they have carried out their full assessment. Furthermore, local authorities are required to accommodate households who are owed the main homelessness duty in temporary accommodation until they find them an offer of settled housing. No such provision exists for households who are not in priority need.

The Panel's proposed new clause would entitle anyone who had nowhere safe to stay to interim accommodation for 28 days. This provides a window of time for support teams to work with the applicant to ensure that they do not sleep rough and move into some form of alternative accommodation. This duty could only be exercised once every six months. If at the end of the 28 days, the applicant re-applied, the local authority

would not be under the nowhere safe to stay accommodation duty if the applicant had had the benefit of that duty from any local authority in England in the six months preceding the date of application. The Panel recognises that further consideration must be given to how this clause will work in relation to the assistance provided to people who are at risk of sleeping rough and verified rough sleepers. However, rough sleepers suffer the worst outcomes of all homeless people and the current system provides inadequate protections and support for this group.

#### 5.1.6 Maintaining the current protection for priority need groups

Under the new proposed legislative framework the intention would be that all eligible applicants would go through the prevention duty (if they are threatened with homelessness) and relief duty (if their homelessness could not be prevented or they are already homeless at the point they approach the local authority). If a local authority is not able to successfully prevent or relieve the homelessness of a household in priority need then they would proceed to the main homelessness duty, which would remain as it is currently drafted in the legislation.

A local authority would be able to fast track a household in priority need to the main homelessness duty if they thought

that this was a more appropriate way to remedy their homelessness. The household would not be able to elect to do this themselves. Furthermore, if households that are in priority need refuse an offer of accommodation under the relief duty or refuse to cooperate with assistance given under either the prevention or relief duties they would not lose their entitlement to an offer of settled accommodation under the main duty. The Panel did not however, reach consensus on this particular issue and some panel members proposed that the refusal to cooperate provision should apply to all households irrespective of priority need status in order to ensure all applicants are equally incentivised to engage in prevention work at the earliest point.

The suitability of the offer of settled accommodation under the main homelessness duty would remain as set out in the current legislation i.e. an offer of social housing or a 12 month minimum fixed-term private rented sector tenancy, which complies with minimum standards set out within the legislation regarding affordability, physical condition of the property and location. The suitability of an offer at the relief stage mirrors that of the main duty. Any offer of accommodation made the prevention stage should be likely to last for six months and meet the same suitability criteria as an offer

of accommodation made at the relief and main duty stage.

### 5.1.7 A wider care and support duty

Prevention and early intervention are prominent features of the current Government's approach to tackling a number of social issues. Under the last Government, the Ministerial Working Group on Preventing and Tackling Homelessness set out a commitment to ensuring that there is a more strategic and joined up approach to ending homelessness. Key to implementing an effective prevention duty will be the ability of local authorities to work with a range of partners in order to help address the multiple and overlapping factors that cause an individual's homelessness. The Panel recommends that Section 213 of the Housing Act (1996), 'Co-operation between relevant housing authorities and bodies' should be redrafted to ensure that the NHS, drug and alcohol agencies, probation teams, debt advice services, children's services and mental health teams should also have a duty to co-operate with local authorities when they carry out their duty to help to prevent homelessness or secure accommodation. The government should consider how, beyond the scope of the homelessness legislation, other agencies should work in partnership with local authorities to prevent homelessness effectively.

## 5.2 Broader issues to be considered

During the panel's discussions about the need for reform of the current homelessness legislation, a number of associated concerns were raised which sat outside the scope of our current exercise, yet warrant inclusion here as possible avenues for future consideration if the government adopts this alternative legal framework.

### 5.2.1 Enforcement

The current mechanisms for enforcing the homelessness legislation are relatively weak. There is no regulator of local authorities' housing and homelessness services, which makes it very difficult to ensure that, beyond individual recourse to the law, the legislation is working as intended.

The Panel have recommended that Section 202 of the Housing Act (1996) 'Right to request review of decision' is amended to reflect the nature of the review in relation to the new duty to assess, duty to help to prevent homelessness and the duty to help to secure accommodation. There will not usually be a 'decision' to be reviewed (unless a specific offer of accommodation has been made and

there is a challenge to its suitability), but the Panel's recommended review will be in respect of the process of assessment and assistance, including the adequacy of any assistance and the outcome. This has the benefit of ensuring that applicants can challenge the process as well as the outcome.

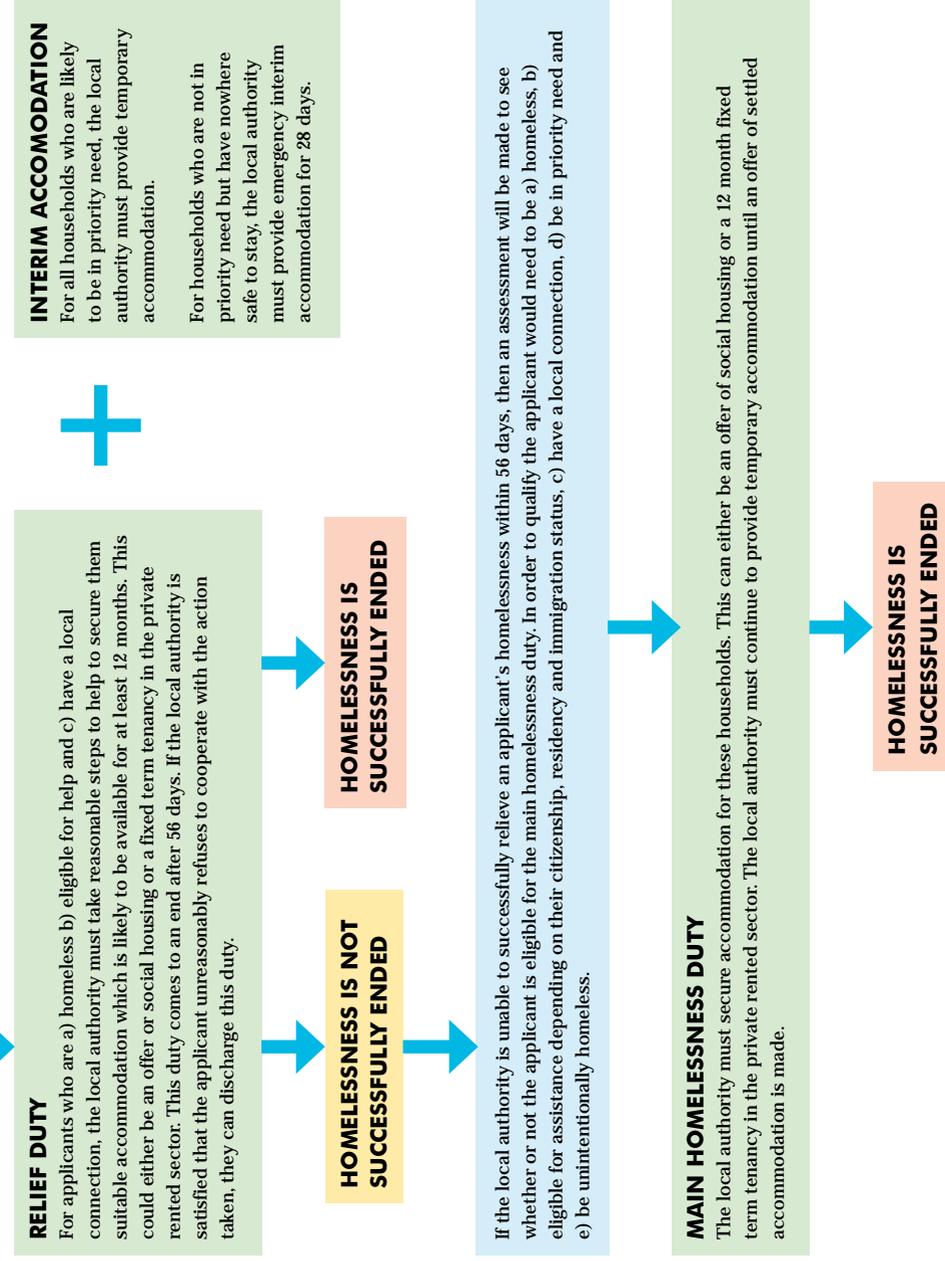
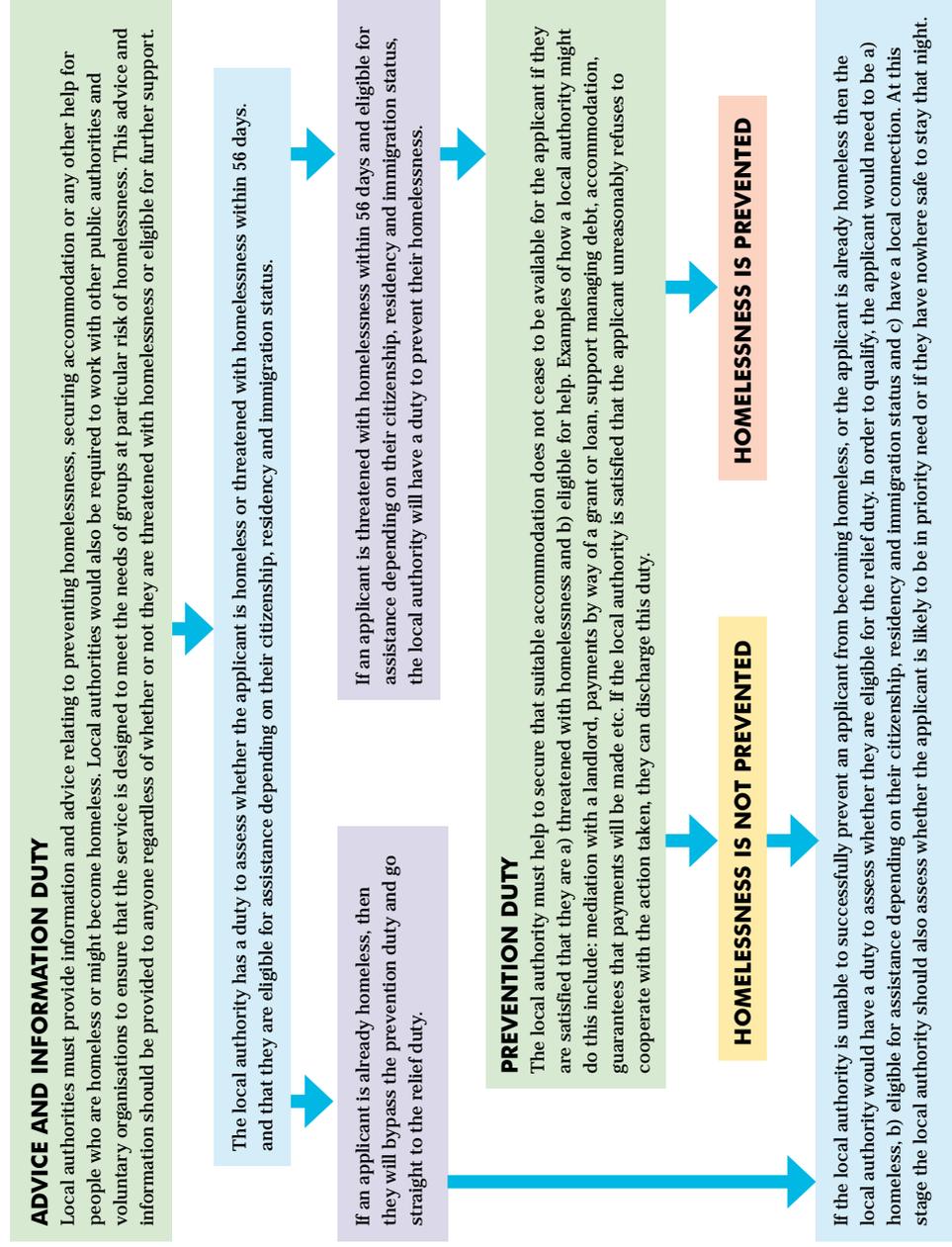
In order to monitor the overall effectiveness of the new legislation, the government should require robust data collection from local authorities on the new prevention and relief duties. Following an investigation in 2015, the UK Statistics Authority published a report, which made a series of recommendations on how the collection and publication of the homelessness statistics could be improved.<sup>33</sup> The report concluded that given the growing importance of prevention and relief activity the government should look at how these statistics might be improved to the same standard as the statutory homelessness statistics with regards to the level of detail collected and the frequency of publication.

The Panel therefore recommends that the data should include information on the types of households that are assisted, the action taken and the long-term outcomes of that assistance.

33. UK Statistics Authority (2015), *Statistics on Homelessness and Rough Sleeping in England*, London: UK Statistics Authority

This data should be published on a quarterly basis in line with the current statutory homelessness statistics. Local authority data collection systems should allow for each individual household to be tracked via a personalised identification number. This will provide government with a much better sense of the overall work conducted by a local authority, a household's journey out of homelessness, as well as more effectively tracking repeat homelessness.

## 6. The process map



## 7. Conclusion

For too long the homelessness legislation in England has failed to provide single people and childless couples with the appropriate support to resolve their homelessness. For applicants who are owed the main homelessness duty, the failure of the current legislation to mandate effective prevention work at a much earlier stage often means that people are forced to crisis point before the local authority intervenes. The majority of prevention work takes place outside the statutory framework, leading to a lack of accountability with regards to the action taken by the local authority.

Recent changes to legislation in both Scotland and Wales have sought to address similar problems. This report therefore sets out an alternative legal model to address this longstanding weakness in the statutory safety net by introducing a much stronger universal prevention duty for all eligible homeless households as well as a duty to help secure accommodation for applicants regardless of priority need status and intentionality. Crucially, our new model would ensure that Housing Options work is brought within the statutory framework. This will help ensure that local authorities provide a meaningful service and can be held to account when

they fail to do so, as well as ensuring that local authorities who are already engaging in good prevention work do not leave themselves open to legal challenge.

Local authorities are facing increasing demand from people experiencing homelessness against a backdrop of cuts to funding for homelessness services. Compared to the current legislation, which often leads to applicants receiving support only once they reach crisis point, this model legislates for stronger prevention work at the earliest point to help to reduce the number of people who lose their homes and require an offer of settled accommodation. Incentivising applicants to engage in prevention work at a much earlier stage not only strengthens the entitlements of single homeless people, but ensures that limited resources are much more effectively targeted, reducing the personal harm to individuals and the financial costs of homelessness to national and local government.

## 8. Annex 1, Housing Act 1996 Part VII: Homelessness (amended)

### 175 Homelessness and threatened homelessness.

**This amendment would change the period for which a person is 'threatened with homelessness' from 28 to 56 days to allow for homelessness to be prevented at an earlier stage, mirroring the Welsh model. It also provides specifically for a person to be considered homeless when a Housing Act (1988) section 21 notice (requiring possession of an assured shorthold tenancy) takes effect, instead of requiring the landlord to take court proceedings and the household to undergo an eviction.**

- (1) A person is homeless if he has no accommodation available for his occupation, in the United Kingdom or elsewhere, which he —
  - (a) is entitled to occupy by virtue of an interest in it or by virtue of an order of a court,
  - (b) has an express or implied licence to occupy, or
  - (c) occupies as a residence by virtue of any enactment or rule of law giving him the right to remain in occupation or restricting the right of another person to recover possession.
- (2) A person is also homeless if he has accommodation but —
  - (a) he cannot secure entry to it, or
  - (b) it consists of a moveable structure, vehicle or vessel designed or adapted for human habitation and there is no place where he is entitled or permitted both to place it and to reside in it.
- (2A) A person in respect of whom a valid notice under section 21 of the Housing Act 1988 (orders for possession on expiry or termination of assured shorthold tenancy) has been given is to be treated as homeless from the date on which that notice expires.
- (3) A person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for him to continue to occupy.
- (4) A person is threatened with homelessness if it is likely that he will become homeless within **56** days

### 176 Meaning of accommodation available for occupation.

Accommodation shall be regarded as available for a person's occupation only if it is available for occupation by him together with—

- (a) any other person who normally resides with him as a member of his family, or
- (b) any other person who might reasonably be expected to reside with him.

References in this Part to securing that accommodation is available for a person's occupation shall be construed accordingly.

### 177 Whether it is reasonable to continue to occupy accommodation.

- (1) It is not reasonable for a person to continue to occupy accommodation if it is probable that this will lead to domestic violence [F1 or other violence] against him, or against—
  - (a) a person who normally resides with him as a member of his family, or
  - (b) any other person who might reasonably be expected to reside with him. [F2(1A) For this purpose "violence" means—
    - (a) violence from another person; or
    - (b) threats of violence from another person which are likely to be carried out; and violence is "domestic violence" if it is from a person who is associated with the victim.]
- (2) In determining whether it would be, or would have been, reasonable for a person to continue to occupy accommodation, regard may be had to the general circumstances prevailing in relation to housing in the district of the local housing authority to whom he has applied for accommodation or for assistance in obtaining accommodation.
- (3) The Secretary of State may by order specify—
  - (a) other circumstances in which it is to be regarded as reasonable or not

- reasonable for a person to continue to occupy accommodation, and
- (b) other matters to be taken into account or disregarded in determining whether it would be, or would have been, reasonable for a person to continue to occupy accommodation.

## 178 Meaning of ‘associated person’.

- (1) For the purposes of this Part, a person is associated with another person if—
- they are or have been married to each other;
  - they are cohabitants or former cohabitants;
  - they live or have lived in the same household;
  - they are relatives;
  - they have agreed to marry one another (whether or not that agreement has been terminated);
  - in relation to a child, each of them is a parent of the child or has, or has had, parental responsibility for the child.
- (2) If a child has been adopted or has been freed for adoption by virtue of any of the enactments mentioned in section 16(1) of the M1Adoption Act 1976, two persons are also associated with each other for the purposes of this Part if—
- one is a natural parent of the child or a parent of such a natural parent, and
  - the other is the child or a person—
    - who has become a parent of the child by virtue of an adoption order or who has applied for an adoption order, or
    - with whom the child has at any time been placed for adoption.
- (3) In this section—
- “adoption order” has the meaning given by section 72(1) of the Adoption Act 1976;
- “child” means a person under the age of 18 years;
- “cohabitants” means a man and a woman who, although not married to each other, are living together as husband and wife, and “former cohabitants” shall be construed accordingly;
- “parental responsibility” has the same meaning as in the M2Children Act 1989; and
- “relative”, in relation to a person, means—
- the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter,

- grandmother, grandfather, grandson or granddaughter of that person or of that person’s spouse or former spouse, or
- (b) the brother, sister, uncle, aunt, niece or nephew (whether of the full blood or of the half blood or by affinity) of that person or of that person’s spouse or former spouse, and includes, in relation to a person who is living or has lived with another person as husband and wife, a person who would fall within paragraph (a) or (b) if the parties were married to each other.

## 179 Duty of local housing authority to provide advisory services.

**This is now based on Section 60 of the Housing (Wales) Act (2014)**

- (1) A local housing authority must secure the provision, without charge, of a service providing people in its area with—
- information and advice relating to preventing homelessness, securing accommodation when homeless, accessing any other help available for people who are homeless or may become homeless, and
  - assistance in accessing help under this Part or any other help for people who are homeless or may become homeless.
- (2) In relation to subsection (1)(a), the service must include, in particular, the publication of information and advice on the following matters—
- the system provided for by this Part and how the system operates in the authority’s area;
  - whether any other help for people who are homeless or may become homeless (whether or not the person is threatened with homelessness within the meaning of this Part) is available in the authority’s area;
  - how to access the help that is available.
- (3) In relation to subsection (1)(b), the service must include, in particular, assistance in accessing help to prevent a person becoming homeless which is available whether or not the person is threatened with homelessness within the meaning of this Part.

- (4) The local housing authority must, in particular by working with other public authorities, voluntary organisations and other persons, ensure that the service is designed to meet the needs of groups at particular risk of homelessness, including in particular—
- (a) people leaving prison or youth detention accommodation,
  - (b) young people leaving care,
  - (c) people leaving the regular armed forces of the Crown,
  - (d) people leaving hospital after medical treatment for mental disorder as an inpatient, and
  - (e) people receiving mental health services in the community.
- (5) Two or more local housing authorities may jointly secure the provision of a service under this section for their areas; and where they do so —
- (a) references in this section to a local housing authority are to be read as references to the authorities acting jointly, and
  - (b) references in this section to a local housing authority's area are to be read as references to the combined area.
- (6) The service required by this section may be integrated with the service required by section 4 of the Care Act 2014.

## 180 Assistance for voluntary organisations.

- (1) The Secretary of State or a local housing authority may give assistance by way of grant or loan to voluntary organisations concerned with homelessness or matters relating to homelessness.
- (2) A local housing authority may also assist any such organisation—
- (a) by permitting them to use premises belonging to the authority,
  - (b) by making available furniture or other goods, whether by way of gift, loan or otherwise, and
  - (c) by making available the services of staff employed by the authority.
- (3) A “voluntary organisation” means a body (other than a public or local authority) whose activities are not carried on for profit.

## 181 Terms and conditions of assistance.

- (1) This section has effect as to the terms and conditions on which assistance is given under section 179 or 180.
- (2) Assistance shall be on such terms, and subject to such conditions, as the person giving the assistance may determine.
- (3) No assistance shall be given unless the person to whom it is given undertakes—
- (a) to use the money, furniture or other goods or premises for a specified purpose, and
  - (b) to provide such information as may reasonably be required as to the manner in which the assistance is being used.

The person giving the assistance may require such information by notice in writing, which shall be complied with within 21 days beginning with the date on which the notice is served.

- (4) The conditions subject to which assistance is given shall in all cases include conditions requiring the person to whom the assistance is given—
- (a) to keep proper books of account and have them audited in such manner as may be specified,
  - (b) to keep records indicating how he has used the money, furniture or other goods or premises, and
  - (c) to submit the books of account and records for inspection by the person giving the assistance.
- (5) If it appears to the person giving the assistance that the person to whom it was given has failed to carry out his undertaking as to the purpose for which the assistance was to be used, he shall take all reasonable steps to recover from that person an amount equal to the amount of the assistance.
- (6) He must first serve on the person to whom the assistance was given a notice specifying the amount which in his opinion is recoverable and the basis on which that amount has been calculated.

## 182 Guidance by the Secretary of State.

- (1) In the exercise of their functions relating to homelessness and the prevention of homelessness, a local housing authority or social services authority shall have regard to such guidance as may from time to time be given by the Secretary of State.
- (2) The Secretary of State may give guidance either generally or to specified descriptions of authorities.

## 183 Application for assistance.

- (1) The following provisions of this Part apply where a person applies to a local housing authority in England for accommodation, or for assistance in obtaining accommodation, and the authority have reason to believe that he is or may be homeless or threatened with homelessness.
- (2) In this Part—
  - “applicant” means a person making such an application,
  - “assistance under this Part” means the benefit of any function under the following provisions of this Part relating to accommodation or assistance in obtaining accommodation, and
  - “eligible for assistance” means not excluded from such assistance by section 185 (persons from abroad not eligible for housing assistance) or section 186 (asylum seekers and their dependants).
- (3) Nothing in this section or the following provisions of this Part affects a person’s entitlement to advice and information under section 179 (duty to provide advisory services).

## 184 Inquiry into cases of homelessness or threatened homelessness.

- (1) If the local housing authority have reason to believe that an applicant may be homeless or threatened with homelessness, they shall make such inquiries as are necessary to satisfy themselves—
  - (a) whether he is eligible for assistance, and
  - (b) if so, whether any duty, and if so what duty, is owed to him under the following provisions of this Part.
- (2) They may also make inquiries whether he has a local connection with the district of another local housing authority in England, Wales or Scotland.
- (3) On completing their inquiries the authority shall notify the applicant of their decision and, so far as any issue is decided against his interests, inform him of the reasons for their decision.
- (4) If the authority have notified or intend to notify another local housing authority under section 198 (referral of cases), they shall at the same time notify the applicant of that decision and inform him of the reasons for it.
- (5) A notice under subsection (3) or (4) shall also inform the applicant of his right to request a review of the decision and of the time within which such a request must be made (see section 202).
- (6) Notice required to be given to a person under this section shall be given in writing and, if not received by him, shall be treated as having been given to him if it is made available at the authority’s office for a reasonable period for collection by him or on his behalf.

## 184A Duty to assess.

- (1) In making its inquiries under section 184, a local housing authority must carry out an assessment of the applicant's case.
- (2) The assessment must include an assessment of—
  - (a) the circumstances that have caused the applicant to be homeless or threatened with homelessness;
  - (b) the housing needs of the applicant and any person with whom the applicant lives or might reasonably be expected to live;
  - (c) the support needed for the applicant and any person with whom the applicant lives or might reasonably be expected to live to retain accommodation which is or may become available;
  - (d) whether or not the authority have any duty to the applicant under the following provisions of this Part.
- (3) In carrying out an assessment, the authority must—
  - (a) seek to identify the outcome the applicant wishes to achieve from the authority's assistance, and
  - (b) assess whether the exercise of any function under this Part could contribute to the achievement of that outcome.
- (4) The authority must keep their assessment under review during the period in which the authority consider that they owe a duty to the applicant under the following provisions of this Part or that they may do so.
- (5) The authority must review its assessment where —
  - (a) the applicant has been notified that a duty is owed to him under section 184B (duty to help to prevent an applicant from becoming homeless) and subsequently the applicant becomes homeless; and
  - (b) the applicant has been notified that a duty is owed to him under section 184C (duty to help to secure accommodation for homeless applicants) and subsequently it appears to the authority that a duty under section 193 may be owed to him.
- (6) The authority must notify the applicant of the outcome of their assessment (or any review of their assessment) and, in so far as any issue is decided against his interests, must inform him of the reasons for their decision.

- (7) A notice under subsection (6) must —
  - (a) inform the applicant of his or her right to request a review of the assessment and of the time within which such a request must be made (see section 202), and
  - (b) be given in writing and, if not received, is to be treated as having been given if it is made available at the authority's office for a reasonable period for collection by the applicant or on the applicant's behalf.

## 184B Duty to help to prevent an applicant from becoming homeless.

- (1) This section applies where the local housing authority are satisfied that an applicant is threatened with homelessness and is eligible for assistance.
- (2) The authority must help to secure that suitable accommodation does not cease to be available for occupation by an applicant.
- (3) Subsection (2) does not affect any right of the authority, whether by virtue of a contract, enactment or rule of law, to secure vacant possession of any accommodation.
- (4) The authority shall cease to be subject to the duty under this section if:
  - (a) the authority is satisfied that any of the circumstances described in sub-section (5) apply; and
  - (b) the applicant has been notified in writing of -
    - (i) the authority's decision that it no longer regards itself as being subject to the relevant duty,
    - (ii) the reasons why it considers that the duty has come to an end,
    - (iii) the applicant's right to request a review, and
    - (iv) the time within which such a request must be made.
- (5) The circumstances in which the duty at section 184B(2) comes to an end are:
  - (a) Where the authority is satisfied that the applicant has become homeless;
  - (b) Where the authority is satisfied that the applicant has ceased to be eligible for assistance'

- (c) where the authority is satisfied (whether as a result of the steps it has taken or not) that -
    - (i) the applicant is no longer threatened with homelessness, and
    - (ii) suitable accommodation is available for occupation by the applicant for a period of at least 6 months.
  - (d) where the authority is satisfied that the applicant is unreasonably refusing to co-operate with the authority in connection with the exercise of its functions under section 184B(2) as they apply to the applicant and that the applicant had been notified in writing by the authority that it was minded to decide that he had unreasonably refused to co-operate, and of the reasons why, and had invited the applicant to reply orally or in writing no less than 14 days before the notification of the authority's decision under section 184B(4).
- (6) At any time the authority may secure that accommodation other than that occupied by the applicant when he made his application is available for occupation by him.
- (7) The Secretary of State may provide by regulations matters that may or may not be taken into account by a local housing authority when deciding that its duty at section 184B(2) has come to an end by virtue of section 184B(5)(d).

## 184C Duty to help to secure accommodation for homeless applicants.

**This version assumes that all applicants, including those in priority need, will go down the 'help to secure' path. Subsection (6) provides that the refusal of an offer under 'help to secure' will not prevent applicants in priority need from proceeding to the main duties. This reflects current practice, whereby refusal of a housing option does not prejudice the right to have the authority consider the homeless application. The main housing duty can, of course, come to an end by refusal of a suitable private rented sector offer (section 193(7AA)). The receiving local housing authority would have a duty to help to secure owed to anyone who was referred. If there is reason to believe that the applicant has a priority need, the receiving local authority would have to provide interim accommodation (section 200 and section 188(4)). For**

**applicants who have a priority need, once the duty to help to secure is ended, the receiving local authority will have a duty to provide short-term accommodation if the applicant intentionally homeless, or main housing duty accommodation if the applicant not intentionally homeless.**

- (1) A local housing authority must help to secure that suitable accommodation is available for occupation by an applicant, if the authority are satisfied that the applicant is—
  - (a) homeless, and
  - (b) eligible for assistance.
- (2) The duty in subsection (1) does not apply if the authority refers the application to another local housing authority (see section 198).
- (3) The authority must have regard to their assessment of the applicant's case under section 184A in fulfilling their duty under this section.
- (4) The authority shall cease to be subject to the duty under this section if:
  - (a) the authority is satisfied that any of the circumstances described in sub-sections (5) or (7) apply; and
  - (b) the applicant has been notified in writing of:
    - (i) the authority's decision that it no longer regards itself as being subject to the relevant duty,
    - (ii) the reasons why it considers that the duty has come to an end,
    - (iii) the applicant's right to request a review, and
    - (iv) the time within which such a request must be made.
- (5) Where the local housing authority is satisfied that the applicant has a priority need, the circumstances in which the duty at section 184C (2) comes to an end are:
  - (a) the end of a period of 56 days;
  - (b) where the authority is satisfied that the applicant has ceased to be eligible for assistance;
  - (c) before the end of a period of 56 days, where the local housing authority is satisfied that reasonable steps have been taken to help to secure that

- suitable accommodation is available for occupation by the applicant;
- (d) where the authority is satisfied (whether as a result of the steps it has taken or not) that suitable accommodation is available for occupation by the applicant for a period of at least 12 months;
  - (e) where the authority is satisfied that the applicant, having been notified of the possible consequence of refusal or acceptance of the offer, refuses an offer of accommodation from any person which the authority are satisfied is suitable for the applicant and the authority are satisfied that the accommodation offered is likely to be available for occupation by the applicant for a period of at least 12 months;
  - (f) where the authority is satisfied that the applicant is unreasonably refusing to co-operate with the authority in connection with the exercise of its functions under section 184C(2) as they apply to the applicant and that the applicant had been notified in writing by the authority that it was minded to decide that he had unreasonably refused to co-operate, and of the reasons why, and had invited the applicant to reply orally or in writing no less than 14 days before the notification of the authority's decision under section 184C(4).
- (6) The cessation of the duty under subsection (5) shall have no effect on any duty or duties of the authority to the applicant under sections 188, 190, 193 or 200.
- (7) Where the local housing authority is satisfied that the applicant does not have a priority need, the circumstances in which the duty at section 184C(2) comes to an end are:
- (a) the end of a period of 56 days;
  - (b) Where the authority is satisfied that the applicant has ceased to be eligible for assistance;
  - (c) where the authority is satisfied (whether as a result of the steps it has taken or not) that suitable accommodation is available for occupation by the applicant for a period of at least 12 months;
  - (d) where the authority is satisfied that the applicant, having been notified of the possible consequence of refusal or acceptance of the offer, refuses an offer of accommodation from any person which the authority are satisfied is suitable for the applicant and the authority are satisfied that the accommodation offered is likely to be available for occupation by the applicant for a period of at least 12 months;

- (e) where the authority is satisfied that the applicant is unreasonably refusing to co-operate with the authority in connection with the exercise of its functions under section 184C(2) as they apply to the applicant and that the applicant had been notified in writing by the authority that it was minded to decide that he had unreasonably refused to co-operate, and of the reasons why, and had invited the applicant to reply orally or in writing no less than 14 days before the notification of the authority's decision under section 184C(4).
- (8) The period of 56 days mentioned in subsections (5) and (7) begins on the day the applicant is notified of the outcome of the assessment under section 184A .
- (9) The authority shall notify the applicant of the steps which they have taken in helping to secure accommodation under this section and the outcome of such assistance.
- (10) The Secretary of State may provide by regulations matters that may or may not be taken into account by a local housing authority when deciding that its duty at section 184C(2) has come to an end by virtue of section 184C(5)(f) or section 184C(7)(e).

## 184D How to secure or help to secure the availability of accommodation.

**This is based on section 64 of the Housing (Wales) Act (2014).**

- (1) Where a local housing authority is required by this Part to help to secure (rather than "to secure") that suitable accommodation is available, or does not cease to be available, for occupation by an applicant, the authority—
- (a) is required to take reasonable steps to help, having regard (among other things) to the need to make the best use of the authority's resources;
  - (b) is not required to secure an offer of accommodation under Part 6 of the Housing Act 1996 (allocation of housing);
  - (c) is not required to otherwise provide accommodation.

- (2) The following are examples of the ways in which a local housing authority may help to secure that suitable accommodation is available, or does not cease to be available for occupation by an applicant—
- (a) by arranging for a person other than the authority to provide something;
  - (b) by themselves providing something; or
  - (c) by providing something, or arranging for something to be provided, to a person other than the applicant.
- (3) The following are examples of what may be provided or arranged to help to secure that suitable accommodation is available, or does not cease to be available, for occupation by an applicant—
- (a) mediation;
  - (b) payments by way of grant or loan;
  - (c) guarantees that payments will be made;
  - (d) support in managing debt, mortgage arrears or rent arrears;
  - (e) security measures for applicants at risk of abuse;
  - (f) advocacy or other representation;
  - (g) accommodation;
  - (h) information and advice;
  - (i) other services, goods or facilities;
  - (j) a private rented access scheme.
- (4) The Secretary of State may give guidance to local housing authorities in relation to how they may help to secure that suitable accommodation is available, or does not cease to be available, for occupation by an applicant.

## 185 Persons from abroad not eligible for housing assistance.

- (1) A person is not eligible for assistance under this Part if he is a person from abroad who is ineligible for housing assistance.
- (2) A person who is subject to immigration control within the meaning of the Asylum and Immigration Act 1996 is not eligible for housing assistance unless he is of a class prescribed by regulations made by the Secretary of State.

- (2A) No person who is excluded from entitlement to housing benefit by section 115 of the Immigration and Asylum Act 1999 (exclusion from benefits) shall be included in any class prescribed under subsection (2).
- (3) The Secretary of State may make provision by regulations as to other descriptions of persons who are to be treated for the purposes of this Part as persons from abroad who are ineligible for housing assistance.
- (4) A person from abroad who is not eligible for housing assistance shall be disregarded in determining for the purposes of this Part whether another person—
- (a) is homeless or threatened with homelessness, or
  - (b) has a priority need for accommodation.

## 186 Asylum-seekers and their dependants.

- (1) An asylum-seeker, or a dependant of an asylum-seeker who is not by virtue of section 185 a person from abroad who is ineligible for housing assistance, is not eligible for assistance under this Part if he has any accommodation in the United Kingdom, however temporary, available for his occupation.
- (2) For the purposes of this section a person who makes a claim for asylum—
  - (a) becomes an asylum-seeker at the time when his claim is recorded by the Secretary of State as having been made, and
  - (b) ceases to be an asylum-seeker at the time when his claim is recorded by the Secretary of State as having been finally determined or abandoned.
- (3) For the purposes of this section a person—
  - (a) becomes a dependant of an asylum-seeker at the time when he is recorded by the Secretary of State as being a dependant of the asylum-seeker, and
  - (b) ceases to be a dependant of an asylum-seeker at the time when the person whose dependant he is ceases to be an asylum-seeker or, if it is earlier, at the time when he is recorded by the Secretary of State as ceasing to be a dependant of the asylum-seeker.

- (4) In relation to an asylum-seeker, “dependant” means a person—
- who is his spouse or a child of his under the age of eighteen, and
  - who has neither a right of abode in the United Kingdom nor indefinite leave under the MImmigration Act 1971 to enter or remain in the United Kingdom.
- (5) In this section a “claim for asylum” means a claim made by a person that it would be contrary to the United Kingdom’s obligations under the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and the Protocol to that Convention for him to be removed from, or required to leave, the United Kingdom.

## 187 Provision of information by Secretary of State.

- (1) The Secretary of State shall, at the request of a local housing authority, provide the authority with such information as they may require—
- as to whether a person is a person to whom section 115 of the Immigration and Asylum Act 1999 (exclusion from benefits) applies, or a dependant of an asylum-seeker, and
  - to enable them to determine whether such a person is eligible for assistance under this Part under section 185 (persons from abroad not eligible for housing assistance).
- (3) Where that information is given otherwise than in writing, the Secretary of State shall confirm it in writing if a written request is made to him by the authority.
- (4) If it appears to the Secretary of State that any application, decision or other change of circumstances has affected the status of a person about whom information was previously provided by him to a local housing authority under this section, he shall inform the authority in writing of that fact, the reason for it and the date on which the previous information became inaccurate.

## 188 Interim duty to accommodate in case of apparent priority need.

**This provides that whilst the duty to help to secure is being performed, if there is any reason to believe that an applicant may have a priority need, interim accommodation must be provided.**

- If the local housing authority have reason to believe that an applicant may be homeless, eligible for assistance and have a priority need, they shall secure that accommodation is available for his occupation pending a decision as to the duty (if any) owed to him under the following provisions of this Part.
- The duty under this section arises irrespective of any possibility of the referral of the applicant’s case to another local housing authority (see sections 198 to 200).
- The duty at section 188(1) ceases when the authority’s decision is notified to the applicant, even if the applicant requests a review of the decision (see section 202).

The authority may secure that accommodation is available for the applicant’s occupation pending a decision on a review.

- Where the local authority has notified the applicant that it is satisfied that the duty to help to secure accommodation at section 184C applies and the local authority has reason to believe or is satisfied that the applicant may have a priority need, they shall secure that accommodation is available for his occupation until the applicant is notified under section 184C(4) that the duty has come to an end.

## 189 Priority need for accommodation.

- (1) The following have a priority need for accommodation—
- a pregnant woman or a person with whom she resides or might reasonably be expected to reside;
  - a person with whom dependent children reside or might reasonably be

expected to reside;

- (c) a person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside;
- (d) a person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster.

(2) The Secretary of State may by order—

- (a) specify further descriptions of persons as having a priority need for accommodation, and
- (b) amend or repeal any part of subsection (1).

(3) Before making such an order the Secretary of State shall consult such associations representing relevant authorities, and such other persons, as he considers appropriate.

(4) No such order shall be made unless a draft of it has been approved by resolution of each House of Parliament.

## 190 Duties to persons not in priority need and/or becoming homeless intentionally.

**This section has been amended so that, where a person who has priority need and has become homeless intentionally has been owed the section 184C duty to help to secure, once that duty has come to an end, the applicant is entitled to accommodation for such period as the authority consider would give him a reasonable opportunity of securing accommodation.**

- (1) This section applies where the local housing authority are satisfied that an applicant is homeless and is eligible for assistance, and has a priority need, but are also satisfied that he became homeless intentionally.
- (2) Where the applicant has been notified by the authority that the duty at section 184C has come to an end as a result of one of the events at section 184C(5)(a), (c), (e) or (f), the authority must (a) secure that accommodation is available for his occupation for such period as they consider will give him a reasonable

opportunity of securing accommodation for his occupation, and (b) provide him with (or secure that he is provided with) advice and assistance in any attempts he may make to secure that accommodation becomes available for his occupation.

## 191 Becoming homeless intentionally.

- (1) A person becomes homeless intentionally if he deliberately does or fails to do anything in consequence of which he ceases to occupy accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy.
- (2) For the purposes of subsection (1) an act or omission in good faith on the part of a person who was unaware of any relevant fact shall not be treated as deliberate.
- (3) A person shall be treated as becoming homeless intentionally if—
  - (a) he enters into an arrangement under which he is required to cease to occupy accommodation which it would have been reasonable for him to continue to occupy, and
  - (b) the purpose of the arrangement is to enable him to become entitled to assistance under this Part, and there is no other good reason why he is homeless.

## 192 Duty to persons not in priority need who are not homeless intentionally.

- (1) This section applies where the local housing authority—
  - (a) are satisfied that an applicant is homeless and eligible for assistance, and
  - (b) are not satisfied that he became homeless intentionally, and are satisfied that he does not have a priority need.
- (2) The authority may secure that accommodation is available for occupation by the applicant.

## 192A Duty to persons with nowhere safe to stay.

- (1) This section applies where the local housing authority
  - (a) are satisfied that the applicant is homeless and eligible for assistance and
  - (b) but are not satisfied that he has a priority need.
- (2) Where the local authority is satisfied that the applicant has nowhere safe to stay, the authority must secure that accommodation is available for his occupation for a period of 28 days from the date of his application under section 183(1).
- (3) An applicant has 'nowhere safe to stay' for the purposes of section 192(3), where there is no accommodation available to him or, if there is accommodation, it is probable that his occupation of it will lead to violence against him or against a person who normally resides with him as a member of his family or any other person who might reasonably be expected to reside with him.
- (4) If an applicant applies for homelessness assistance under section 183(1) and the authority is satisfied that it or any local housing authority in England owed the duty at section 192(3) to him at any time in the six months immediately preceding the date of the application, the duty at section 192(3) shall not apply.

## 193 Duty to persons with priority need who are not homeless intentionally.

- (1) This section applies where the local housing authority are satisfied that an applicant is homeless, eligible for assistance and has a priority need, and are not satisfied that he became homeless intentionally and are satisfied that the applicant has been notified under section 184C(4) that the duty to help to secure accommodation at section 184C has come to an end as a result of one of the events at section 184C(5)(a), (c), (e) or (f).
- (2) Unless the authority refer the application to another local housing authority (see section 198), they shall secure that accommodation is available for occupation by

the applicant.

- (3) The authority is subject to the duty under this section until it ceases by virtue of any of the following provisions of this section.
- (4) In this section "a restricted case" means a case where the local housing authority would not be satisfied as mentioned in subsection (1) without having had regard to a restricted person.
- (5) The local housing authority shall cease to be subject to the duty under this section if—
  - (a) the applicant, having been informed by the authority of the possible consequence of refusal or acceptance and of the right to request a review of the suitability of the accommodation, refuses an offer of accommodation which the authority are satisfied is suitable for the applicant,
  - (b) that offer of accommodation is not an offer of accommodation under Part 6 or a private rented sector offer, and
  - (c) the authority notify the applicant that they regard themselves as ceasing to be subject to the duty under this section.
- (6) The local housing authority shall cease to be subject to the duty under this section if the applicant—
  - (a) ceases to be eligible for assistance,
  - (b) becomes homeless intentionally from the accommodation made available for his occupation,
  - (c) accepts an offer of accommodation under Part VI (allocation of housing), or
  - (cc) accepts an offer of an assured tenancy (other than an assured shorthold tenancy) from a private landlord,
  - (d) otherwise voluntarily ceases to occupy as his only or principal home the accommodation made available for his occupation.
- (6) The local housing authority shall also cease to be subject to the duty under this section if the applicant, having been informed of the possible consequence of refusal or acceptance and of his right to request a review of the suitability of the accommodation, refuses a final offer of accommodation under Part 6.

- (7A) An offer of accommodation under Part 6 is a final offer for the purposes of subsection (7) if it is made in writing and states that it is a final offer for the purposes of subsection (7).
- (7AA) The authority shall also cease to be subject to the duty under this section if the applicant, having been informed in writing of the matters mentioned in subsection (7AB)—
- (a) accepts a private rented sector offer, or
  - (b) refuses such an offer.
- (7AB) The matters are—
- (a) the possible consequence of refusal or acceptance of the offer, and
  - (b) that the applicant has the right to request a review of the suitability of the accommodation, and
  - (c) in a case which is not a restricted case, the effect under section 195A of a further application to a local housing authority within two years of acceptance of the offer.
- (7AC) For the purposes of this section an offer is a private rented sector offer if—
- (a) it is an offer of an assured shorthold tenancy made by a private landlord to the applicant in relation to any accommodation which is, or may become, available for the applicant's occupation,
  - (b) it is made, with the approval of the authority, in pursuance of arrangements made by the authority with the landlord with a view to bringing the authority's duty under this section to an end, and
  - (c) the tenancy being offered is a fixed term tenancy (within the meaning of Part 1 of the Housing Act 1988) for a period of at least 12 months.
- (7AD) In a restricted case the authority shall, so far as reasonably practicable, bring their duty under this section to an end as mentioned in subsection (7AA).
- (7F) The local housing authority shall not—
- (a) make a final offer of accommodation under Part 6 for the purposes of subsection (7); or
  - (ab) approve a private rented sector offer; unless they are satisfied that the accommodation is suitable for the applicant and that subsection (8) does not apply to the applicant.

- (8) This subsection applies to an applicant if—
- (a) the applicant is under contractual or other obligations in respect of the applicant's existing accommodation, and
  - (b) the applicant is not able to bring those obligations to an end before being required to take up the offer.
- (9) A person who ceases to be owed the duty under this section may make a fresh application to the authority for accommodation or assistance in obtaining accommodation.
- (10) The appropriate authority may provide by regulations that subsection (7AC)(c) is to have effect as if it referred to a period of the length specified in the regulations.
- (11) Regulations under subsection (10)—
- (a) may not specify a period of less than 12 months, and
  - (b) may not apply to restricted cases.
- (12) In subsection (10) "the appropriate authority" means the Secretary of State.

**Both sections 195 and 196 can be repealed if new sections 184B and 184C (prevention and relief) are enacted, as they will no longer serve a useful purpose.**

## 195A Re-application after private rented sector offer.

- (1) If within two years beginning with the date on which an applicant accepts an offer under section 193(7AA) (private rented sector offer), the applicant re-applies for accommodation, or for assistance in obtaining accommodation, and the local housing authority—
- (a) are satisfied that the applicant is homeless and eligible for assistance, and
  - (b) are not satisfied that the applicant became homeless intentionally, the duty under section 193(2) applies regardless of whether the applicant has a priority need.

- (2) For the purpose of subsection (1), an applicant in respect of whom a valid notice under section 21 of the Housing Act 1988 (orders for possession on expiry or termination of assured shorthold tenancy) has been given is to be treated as homeless from the date on which that notice expires.
- (3) If within two years beginning with the date on which an applicant accepts an offer under section 193(7AA), the applicant re-applies for accommodation, or for assistance in obtaining accommodation, and the local housing authority—
- are satisfied that the applicant is threatened with homelessness and eligible for assistance, and
  - are not satisfied that the applicant became threatened with homelessness intentionally, the duty under section 195(2) applies regardless of whether the applicant has a priority need.
- (4) For the purpose of subsection (3), an applicant in respect of whom a valid notice under section 21 of the Housing Act 1988 has been given is to be treated as threatened with homelessness from the date on which that notice is given.
- (5) Subsection (1) or (3) does not apply to a case where the local housing authority would not be satisfied as mentioned in that subsection without having regard to a restricted person.
- (6) Subsection (1) or (3) does not apply to a re-application by an applicant for accommodation, or for assistance in obtaining accommodation, if the immediately preceding application made by that applicant was one to which subsection (1) or (3) applied.

## 196 Becoming threatened with homelessness intentionally.

- (1) A person becomes threatened with homelessness intentionally if he deliberately does or fails to do anything the likely result of which is that he will be forced to leave accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy.
- (2) For the purposes of subsection (1) an act or omission in good faith on the part of

a person who was unaware of any relevant fact shall not be treated as deliberate.

- (3) A person shall be treated as becoming threatened with homelessness intentionally if –
- he enters into an arrangement under which he is required to cease to occupy accommodation which it would have been reasonable for him to continue to occupy, and
  - the purpose of the arrangement is to enable him to become entitled to assistance under this Part, and there is no other good reason why he is threatened with homelessness.

## 198 Referral of case to another local housing authority.

- (1) If the local housing authority would be subject to the duties under sections 184C or 193 (accommodation for those with priority need who are not homeless intentionally) but consider that the conditions are met for referral of the case to another local housing authority, they may notify that other authority of their opinion.
- (2) The conditions for referral of the case to another authority are met if—
- neither the applicant nor any person who might reasonably be expected to reside with him has a local connection with the district of the authority to whom his application was made,
  - the applicant or a person who might reasonably be expected to reside with him has a local connection with the district of that other authority, and
  - neither the applicant nor any person who might reasonably be expected to reside with him will run the risk of domestic violence in that other district.
- (2A) But the conditions for referral mentioned in subsection (2) are not met if—
- the applicant or any person who might reasonably be expected to reside with him has suffered violence (other than domestic violence) in

- the district of the other authority; and
- (b) it is probable that the return to that district of the victim will lead to further violence of a similar kind against him.
- (3) For the purposes of subsections (2) and (2A) “violence” means—
- violence from another person; or
  - threats of violence from another person which are likely to be carried out; and violence is “domestic violence” if it is from a person who is associated with the victim.]
- (4) The conditions for referral of the case to another authority are also met if—
- the applicant was on a previous application made to that other authority placed (in pursuance of their functions under this Part) in accommodation in the district of the authority to whom his application is now made, and
  - the previous application was within such period as may be prescribed of the present application.
- (5) The question whether the conditions for referral of a case which does not involve a referral to a local housing authority in Wales are satisfied shall be decided by agreement between the notifying authority and the notified authority or, in default of agreement, in accordance with such arrangements as the Secretary of State may direct by order.
- (5A) The question whether the conditions for referral of a case involving a referral to a local housing authority in Wales shall be decided by agreement between the notifying authority and the notified authority or, in default of agreement, in accordance with such arrangements as the Secretary of State and the Welsh Ministers may jointly direct.
- (6) An order may direct that the arrangements shall be—
- those agreed by any relevant authorities or associations of relevant authorities, or
  - in default of such agreement, such arrangements as appear to the Secretary of State or, in the case of an order under subsection (5A), to the Secretary of State and the Welsh Ministers to be suitable, after consultation with such associations representing relevant authorities, and such other persons, as he thinks appropriate.

- (7) An order under this section shall not be made unless a draft of the order has been approved by a resolution of each House of Parliament and, in the case of a joint order, a resolution of the National Assembly for Wales.

## 199 Local connection.

- (1) A person has a local connection with the district of a local housing authority if he has a connection with it—
- because he is, or in the past was, normally resident there, and that residence is or was of his own choice,
  - because he is employed there,
  - because of family associations, or
  - because of special circumstances.
- (2) (repealed by the Localism Act 2011)
- (3) Residence in a district is not of a person’s own choice if—
- (repealed by the Localism Act 2011)
  - he, or a person who might reasonably be expected to reside with him, becomes resident there because he is detained under the authority of an Act of Parliament.
- (4) In subsections (2) and (3) “regular armed forces of the Crown” means he regular forces as defined by section 374 of the Armed Forces Act 2006.
- (5) The Secretary of State may by order specify circumstances in which—
- a person is not to be treated as employed in a district, or
  - residence in a district is not to be treated as of a person’s own choice.
- (6) A person has a local connection with the district of a local housing authority if he was (at any time) provided with accommodation in that district under section 95 of the Immigration and Asylum Act 1999 (support for asylum-seekers).
- (7) But subsection (6) does not apply –
- to the provision of accommodation for a person in a district of a local housing authority if he was subsequently provided with accommodation in the district of another local housing authority under

section 95 of that Act, or

- (b) to the provision of accommodation in an accommodation centre by virtue of section 22 of the Nationality, Immigration and Asylum Act 2002 (c 41) (use of accommodation centres for section 95 support).

## 200 Duties to the applicant whose case is considered for referral or referred.

- (1) Where a local housing authority notify an applicant that they intend to notify or have notified another local housing authority of their opinion that the conditions are met for the referral of his case to that other authority –
- they cease to be subject to any duty under section 188 (interim duty to accommodate in case of apparent priority need), and
  - they are not subject to any duty under sections 184C (duty to help to secure) or 193 (the main housing duty), but they shall secure that accommodation is available for occupation by the applicant until he is notified of the decision whether the conditions for referral of his case are met.
- (2) When it has been decided whether the conditions for referral are met, the notifying authority shall notify the applicant of the decision and inform him of the reasons for it. The notice shall also inform the applicant of his right to request a review of the decision and of the time within which such a request must be made.
- (3) If it is decided that the conditions for referral are not met, the notifying authority are subject to the duties under sections 184C (duty to help to secure), 188(4), 190 and 193 (the main housing duty).
- (4) If it is decided that those conditions are met, the notified authority are subject to the duties under sections 184C (duty to help to secure), 188(4), 190 and 193 (the main housing duty).
- (5) The duty under subsection (1), 2 ceases as provided in that subsection even if the applicant requests a review of the authority's decision (see section 202).

The authority may [secure]<sup>3</sup> that accommodation is available for the applicant's occupation pending the decision on a review.

- (6) Notice required to be given to an applicant under this section shall be given in writing and, if not received by him, shall be treated as having been given to him if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

## 201 Application of referral provisions to cases arising in Scotland.

Sections 198 and 200 (referral of application to another local housing authority and duties to applicant whose case is considered for referral or referred) apply –

- to applications referred by a local authority in Scotland in pursuance of sections 33 and 34 of the Housing (Scotland) Act 1987, and
- to persons whose applications are so transferred, as they apply to cases arising under this Part (the reference in section 198 to this Part being construed as a reference to Part II of that Act).

## 201A Right to request review of decision.

- (1) This section applies where an application has been referred by a local housing authority in Wales to a local housing authority in England under section 80 of the Housing (Wales) Act 2014 (referral of case to another local housing authority).
- (2) If it is decided that the conditions in that section for referral of the case are met, the notified authority are subject to the duty under section 193 of this Act in respect of the person whose case is referred (the main housing duty); for provision about cases where it is decided that the conditions for referral are not met, see section 82 of the Housing (Wales) Act 2014 (duties to applicant whose case is considered for referral or referred).
- (3) References in this Part to an applicant include a reference to a person to whom a

duty is owed by virtue of subsection (2).]<sup>1</sup>

## 202 Right to request review of decision.

**This section, governing rights to review, has been amended to reflect the nature of the review in relation to the duties to assess, to help to prevent and to help to secure. Here, there will not usually be a `decision' to be reviewed (unless a specific offer of accommodation has been made and there is a challenge to its suitability), but the review will be in respect of the process of assessment and assistance, including the adequacy of any assistance and the outcome.**

- (1) An applicant has the right to request a review of—
- (a) any decision of a local housing authority as to his eligibility for assistance,
  - (aa) any assessment of the applicant's case under section 184A;
  - (ab) any assistance given to the applicant under section 184B (duty to prevent homelessness);
  - (ac) any assistance given to the applicant under section 184C (duty to help to secure accommodation);
  - (b) any decision of a local housing authority as to what duty (if any) is owed to him under sections 190 to 193 (duties to persons found to be homeless or threatened with homelessness),
  - (ba) any decision of a local housing authority that any of the duties owed to an applicant under sections 184B, 184C, 190, 192, 192A and 193 have come to an end;
  - (c) any decision of a local housing authority to notify another authority under section 198(1) (referral of cases),
  - (d) any decision under section 198(5) whether the conditions are met for the referral of his case,
  - (e) any decision under section 200(3) or (4) (decision as to duty owed to applicant whose case is considered for referral or referred),
  - (f) any decision of a local housing authority as to the suitability of accommodation offered to him in discharge of their duty under any of the provisions mentioned in paragraph (b), (ba) or (e) or as to the

- suitability of accommodation offered to him as mentioned in section 193(7), or
- (g) any decision of a local housing authority as to the suitability of accommodation offered to him by way of a private rented sector offer (within the meaning of section 193).

- (1A) An applicant who is offered accommodation as mentioned in sections 184B, 184C, 190, 192A, 193(5), (7) (7AA) or 200 may under subsection (1)(f) or (as the case may be) (g) request a review of the suitability of the accommodation offered to him whether or not he has accepted the offer.
- (1B) A review undertaken under subsection (1)(aa) shall extend to
- (a) steps taken by the authority in carrying out the assessment;
  - (b) matters taken into account in connection with the assessment;
  - (c) any findings of fact made in the course of the assessment;
  - (d) any decision which is adverse to the applicant's interests;
  - (e) the outcome of the assessment, including any recommendation as to the nature of the authority's duties to the applicant; and
  - (f) any failure to review the assessment under section 184A(4) or (5).
- (1C) A review undertaken under subsection (1)(ab) and 1(ac) shall extend to:
- (a) the process followed by the authority in helping to prevent homelessness or in helping to secure the availability of accommodation (as the case may be);
  - (b) the nature and extent of any assistance given, and whether such assistance was appropriate and adequate to the applicant's circumstances;
  - (c) the outcome of the assistance given; and
  - (d) the suitability of any accommodation which may be offered to him in the course of the performance of the authority's functions under sections 184B or 184C (as the case may be).
- (2) There is no right to request a review of the decision reached on an earlier review.
- (3) A request for review must be made before the end of the period of 21 days beginning with the day on which he is notified of the authority's decision or such longer period as the authority may in writing allow.

- (4) In relation to a review under subsection (1) (aa), (ab) and (ac), a request for review must be made before the end of the period of 21 days beginning with the day on which he is notified as provided under sections 184A(5), 184B(8) or 184C(10) (as the case may be) or such longer period as the authority may in writing allow.
- (5) On a request being duly made to them, the authority or authorities concerned shall review their decision.

## 203 Procedure on a review.

- (1) The Secretary of State may make provision by regulations as to the procedure to be followed in connection with a review under section 202. Nothing in the following provisions affects the generality of this power.
- (2) Provision may be made by regulations –
- (a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and
  - (b) as to the circumstances in which the applicant is entitled to an oral hearing, and whether and by whom he may be represented at such a hearing.
- (3) The authority, or as the case may be either of the authorities, concerned shall notify the applicant of the decision on the review.
- (4) If the decision is –
- (a) to confirm the original decision on any issue against the interests of the applicant, or
  - (b) to confirm a previous decision –
    - (i) to notify another authority under section 198 (referral of cases), or
    - (ii) that the conditions are met for the referral of his case, they shall also notify him of the reasons for the decision.
- (5) In any case they shall inform the applicant of his right to appeal to [the county court]<sup>1</sup> on a point of law, and of the period within which such an appeal must be made (see section 204).

- (6) Notice of the decision shall not be treated as given unless and until subsection (5), and where applicable subsection (4), is complied with.
- (7) Provision may be made by regulations as to the period within which the review must be carried out and notice given of the decision.
- (8) Notice required to be given to a person under this section shall be given in writing and, if not received by him, shall be treated as having been given if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

## 204 Right of appeal to county court on point of law.

- (1) If an applicant who has requested a review under section 202 –
- (a) is dissatisfied with the decision on the review, or
  - (b) is not notified of the decision on the review within the time prescribed under section 203, he may appeal to the county court on any point of law arising from the decision or, as the case may be, the original decision.
- (2) An appeal must be brought within 21 days of his being notified of the decision or, as the case may be, of the date on which he should have been notified of a decision on review.
- [(2A) The court may give permission for an appeal to be brought after the end of the period allowed by subsection (2), but only if it is satisfied –
- (a) where permission is sought before the end of that period, that there is a good reason for the applicant to be unable to bring the appeal in time; or
  - (b) where permission is sought after that time, that there was a good reason for the applicant's failure to bring the appeal in time and for any delay in applying for permission.]<sup>1</sup>
- (3) On appeal the court may make such order confirming, quashing or varying the decision as it thinks fit.

- (4) Where the authority were under a duty under section 188, 190 or 200 to secure that accommodation is available for the applicant's occupation[, or had the power under section 195(8) to do so, they may]<sup>2</sup> secure that accommodation is so available –
- (a) during the period for appealing under this section against the authority's decision, and
  - (b) if an appeal is brought, until the appeal (and any further appeal) is finally determined.

## 204A Section 204(4): appeals.

- (1) This section applies where an applicant has the right to appeal to the county court against a local housing authority's decision on a review.
- (2) If the applicant is dissatisfied with a decision by the authority –
  - (a) not to exercise their power under section 204(4) ('the section 204(4) power') in his case;
  - (b) to exercise that power for a limited period ending before the final determination by the county court of his appeal under s.204(1) ('the main appeal'); or
  - (c) to cease exercising that power before that time, he may appeal to the county court against the decision.
- (3) An appeal under this section may not be brought after the final determination by the county court of the main appeal.
- (4) On an appeal under this section the court –
  - (a) may order the authority to secure that accommodation is available for the applicant's occupation until the determination of the appeal (or such earlier time as the court may specify); and
  - (b) shall confirm or quash the decision appealed against, and in considering whether to confirm or quash the decision the court shall apply the principles applied by the High Court on an application for judicial review.
- (5) If the court quashes the decision it may order the authority to exercise the

section 204(4) power in the applicant's case for such period as may be specified in the order.

- (6) An order under subsection (5) –
  - (a) may only be made if the court is satisfied that failure to exercise the section 204(4) power in accordance with the order would substantially prejudice the applicant's ability to pursue the main appeal;
  - (b) may not specify any period ending after the final determination by the county court of the main appeal.<sup>1</sup>

## Supplementary provisions.

### 205 Discharge of functions: introductory.

- (1) The following sections have effect in relation to the discharge by a local housing authority of their functions under this Part to secure that accommodation is available for the occupation of a person – section 206 (general provisions), ...<sup>1</sup> section 208 (out-of-area placements), section 209 (arrangements with private landlord).
- (2) In [sections 206 and 208]<sup>2</sup> those functions are referred to as the authority's 'housing functions under this Part'.

### 206 Discharge of functions by local housing authorities.

- (1) A local housing authority may discharge their housing functions under this Part only in the following ways—
  - (a) by securing that suitable accommodation provided by them is available,
  - (b) by securing that he obtains suitable accommodation from some other person, or

(c) by giving him such advice and assistance as will secure that suitable accommodation is available from some other person.

(1A) In subsection (1), “secure” includes “help to secure” under sections 184B and 184C.

(2) A local housing authority may require a person in relation to whom they are discharging such functions—

- (a) to pay such reasonable charges as they may determine in respect of accommodation which they secure for his occupation (either by making it available themselves or otherwise), or
- (b) to pay such reasonable amount as they may determine in respect of sums payable by them for accommodation made available by another person.

## 207 Section repealed: Homelessness Act (2002).

## 208 Discharge of functions: out-of-area placements.

(1) So far as reasonably practicable a local housing authority shall in discharging their housing functions under this Part secure that accommodation is available for the occupation of the applicant in their district.

(1A) Subsection (1) shall not apply where –

- (a) the local housing authority and another housing authority have agreed that the local housing authority may secure that accommodation is available for the occupation of all or an agreed number of asylum-seekers who are section 185(2) persons in that other authority’s district; and
- (b) that other authority has provided written confirmation of the agreement to the local housing authority.]<sup>1</sup>

(2) If they secure that accommodation is available for the occupation of the applicant outside their district, they shall give notice to the local housing authority in whose district the accommodation is situated.

(3) The notice shall state –

- (a) the name of the applicant,
- (b) the number and description of other persons who normally reside with him as a member of his family or might reasonably be expected to reside with him,
- (c) the address of the accommodation,
- (d) the date on which the accommodation was made available to him, and
- (e) which function under this Part the authority was discharging in securing that the accommodation is available for his occupation.

(4) The notice must be in writing, and must be given before the end of the period of 14 days beginning with the day on which the accommodation was made available to the applicant.

### Modification

<sup>1</sup> For England only, this section is modified in relation to asylum-seekers who are eligible for housing assistance as a result of regulations made under s 185(2) of the Housing Act 1996, and who are not made ineligible by s 186 (or any other provision) of that Act: Homelessness (Asylum-Seekers) (Interim Period) (England) Order 1999, SI 1999/3126, arts 1(2), 2, 5. That Order shall cease to have effect on the date on which s 186 of the Housing Act 1996 is repealed by the Immigration and Asylum Act 1999, s 117(5).

## [209 Discharge of interim duties: arrangements with private landlord.

(1) This section applies where in pursuance of any of their housing functions under section 188, 190, 200 or 204(4) (interim duties) a local housing authority make arrangements with a private landlord to provide accommodation.

(2) A tenancy granted to the applicant in pursuance of the arrangements cannot be an assured tenancy before the end of the period of twelve months beginning with –

- (a) the date on which the applicant was notified of the authority’s decision under section 184(3) or 198(5); or
- (b) if there is a review of that decision under section 202 or an appeal to the court under section 204, the date on which he is notified of the decision on review or the appeal is finally determined, unless, before

or during that period, the tenant is notified by the landlord (or in the case of joint landlords, at least one of them) that the tenancy is to be regarded as an assured shorthold tenancy or an assured tenancy other than an assured shorthold tenancy.]

## 210 Suitability of accommodation.

- (1) In determining for the purposes of this Part whether accommodation is suitable for a person, the local housing authority shall have regard Parts 9 and 10 of the Housing Act 1985 (slum clearance; and overcrowding) and Parts 1 to 4 of the Housing Act 2004]<sup>2</sup>.
- [(1A) In determining for the purposes of this Part whether accommodation is suitable for an applicant, or any person who might reasonably be expected to reside with him, the local housing authority –
- (a) shall also have regard to the fact that the accommodation is to be temporary pending the determination of the applicant's claim for asylum; and
  - (b) shall not have regard to any preference that the applicant, or any person who might reasonably be expected to reside with him, may have as to the locality in which the accommodation is to be secured.]<sup>3</sup>
- (2) The Secretary of State may by order specify –
- (a) circumstances in which accommodation is or is not to be regarded as suitable for a person, and
  - (b) matters to be taken into account or disregarded in determining whether accommodation is suitable for a person.
- (3) For the purposes of this Part, accommodation secured from a private landlord as defined at section 217(1) shall not be regarded as suitable where one or more of the following apply –
- (a) the local housing authority are of the view the accommodation is not in a reasonable physical condition; or
  - (b) the local housing authority are of the view that any electrical equipment supplied with the accommodation does not meet the requirements of regulations 5 and 7 of the Electrical Equipment (Safety)

- Regulations 1994; or
- (c) the local housing authority are of the view the landlord has not taken reasonable fire safety precautions with the accommodation and any furnishings supplied with it;
  - (d) the local housing authority are of the view the landlord has not taken reasonable precautions to prevent the possibility of carbon monoxide poisoning in the accommodation;
  - (e) the local housing authority are of the view the landlord is not a fit and proper person to act in the capacity of landlord, having considered if the person has –
    - (i) committed any offence involving fraud or other dishonesty, or violence or illegal drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
    - (ii) practised unlawful discrimination on grounds of sex, race, age, disability, marriage or civil partnership, pregnancy or maternity, religion or belief, sexual orientation, gender identity or gender reassignment in, or in connection with, the carrying out of any business;
    - (iii) contravened any provision of the law relating to housing (including landlord or tenant law); or,
    - (iv) acted otherwise than in accordance with any applicable code of practice for the management of a house in multiple occupation, approved under section 233 of the Housing Act 2004;
  - (f) the accommodation is a house in multiple occupation subject to licensing under section 55 of the Housing Act 2004 and is not licensed;
  - (g) the accommodation is a house in multiple occupation subject to additional licensing under section 56 of the Housing Act 2004 and is not licensed;
  - (h) the accommodation is or forms part of residential property which does not have a valid energy performance certificate as required by the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007;
  - (i) the accommodation is or forms part of relevant premises which do not have a current gas safety record in accordance with regulation 36 of the Gas Safety (Installation and Use) Regulations 1998; or

- (j) the landlord has not provided to the local housing authority a written tenancy agreement, which the landlord proposes to use for the purposes of a private rented sector offer, and which the local housing authority considers to be adequate.

## 211 Protection of property of homeless persons and persons threatened with homelessness.

- (1) This section applies where a local housing authority have reason to believe that –
  - (a) there is danger of loss of, or damage to, any personal property of an applicant by reason of his inability to protect it or deal with it, and
  - (b) no other suitable arrangements have been or are being made.
- (2) If the authority have become subject to a duty towards the applicant under – section 188 (interim duty to accommodate), section 190, 193 or 195 (duties to persons found to be homeless or threatened with homelessness), or section 200 (duties to applicant whose case is considered for referral or referred), then, whether or not they are still subject to such a duty, they shall take reasonable steps to prevent the loss of the property or prevent or mitigate damage to it.
- (3) If they have not become subject to such a duty, they may take any steps they consider reasonable for that purpose.
- (4) The authority may decline to take action under this section except upon such conditions as they consider appropriate in the particular case, which may include conditions as to –
  - (a) the making and recovery by the authority of reasonable charges for the action taken, or
  - (b) the disposal by the authority, in such circumstances as may be specified, of property in relation to which they have taken action.
- (5) References in this section to personal property of the applicant include personal property of any person who might reasonably be expected to reside with him.
- (6) Section 212 contains provisions supplementing this section.

## 212 Protection of property: supplementary provisions.

- (1) The authority may for the purposes of section 211 (protection of property of homeless persons or persons threatened with homelessness) –
  - (a) enter, at all reasonable times, any premises which are the usual place of residence of the applicant or which were his last usual place of residence, and
  - (b) deal with any personal property of his in any way which is reasonably necessary, in particular by storing it or arranging for its storage.
- (2) Where the applicant asks the authority to move his property to a particular location nominated by him, the authority –
  - (a) may, if it appears to them that his request is reasonable, discharge their responsibilities under section 211 by doing as he asks, and
  - (b) having done so, have no further duty or power to take action under that section in relation to that property.  
If such a request is made, the authority shall before complying with it inform the applicant of the consequence of their doing so.
- (3) If no such request is made (or, if made, is not acted upon) the authority cease to have any duty or power to take action under section 211 when, in their opinion, there is no longer any reason to believe that there is a danger of loss of or damage to a person's personal property by reason of his inability to protect it or deal with it. But property stored by virtue of their having taken such action may be kept in store and any conditions upon which it was taken into store continue to have effect, with any necessary modifications.
- (4) Where the authority –
  - (a) cease to be subject to a duty to take action under section 211 in respect of an applicant's property, or
  - (b) cease to have power to take such action, having previously taken such action, they shall notify the applicant of that fact and of the reason for it.
- (5) The notification shall be given to the applicant –
  - (a) by delivering it to him, or

(b) by leaving it, or sending it to him, at his last known address.

(6) References in this section to personal property of the applicant include personal property of any person who might reasonably be expected to reside with him.

## 213 Co-operation.

(1) A local housing authority must make arrangements to promote co-operation between the officers of the authority who exercise its social services functions and those who exercise its functions as the local housing authority with a view to achieving the following objectives in its area—

- (a) the prevention of homelessness,
- (b) that suitable accommodation is or will be available for people who are or may become homeless,
- (c) that satisfactory support is available for people who are or may become homeless, and
- (d) the effective discharge of its functions under this Part.

(2) If a local housing authority requests the co-operation of a person mentioned in subsection (5) in the exercise of its functions under this Part, the person must comply with the request unless the person considers that doing so would—

- (a) be incompatible with the person's own duties, or
- (b) otherwise have an adverse effect on the exercise of the person's functions.

(3) If a local housing authority requests that a person mentioned in subsection (5) provides it with information it requires for the purpose of the exercise of any of its functions under this Part, the person must comply with the request unless the person considers that doing so would—

- (a) be incompatible with the person's own duties, or
- (b) otherwise have an adverse effect on the exercise of the person's functions.

(4) A person who decides not to comply with a request under subsection (2) or (3) must give the local housing authority who made the request written reasons for the decision.

(5) The persons (whether in England or Wales or Scotland) are—

- (a) a local housing authority or local authority;
- (b) a social services authority in England or Wales, or social work authority in Scotland;
- (c) a registered social landlord;
- (d) a new town corporation;
- (e) a private registered provider of social housing;
- (f) a housing action trust;
- (g) the National Health Service Commissioning Board;
- (h) a clinical commissioning group ;
- (i) an NHS trust or NHS foundation trust ; or
- (j) a Health and Well-being Board as defined at section 194 Health and Social Care Act 2012.

(6) The Secretary of State may amend subsection (5) by order to omit or add a person, or a description of a person.

(7) An order under subsection (6) may not add a Minister of the Crown.

(8) In this section—

“housing action trust” means a housing action trust established under Part 3 of the Housing Act 1988;

“new town corporation” has the meaning given in Part 1 of the Housing Act 1985;

“private registered provider of social housing” has the meaning given by Part 2 of the Housing and Regeneration Act 2008;

“registered social landlord” has the meaning given by Part 1 of the Housing Act 1996.

## 213A Co-operation in certain cases involving children.

(1) This section applies where a local housing authority have reason to believe that an applicant with whom a person under the age of 18 normally resides, or might reasonably be expected to reside –

- (a) may be ineligible for assistance;
- (b) may be homeless and may have become so intentionally; or
- (c) may be threatened with homelessness intentionally.

- (2) A local housing authority shall make arrangements for ensuring that, where this section applies –
- (a) the applicant is invited to consent to the referral of the essential facts of his case to the social services authority for the district of the housing authority (where that is a different authority); and
  - (b) if the applicant has given that consent, the social services authority are made aware of those facts and of the subsequent decision of the housing authority in respect of his case.
- (3) Where the local housing authority and the social services authority for a district are the same authority (a 'unitary authority'), that authority shall make arrangements for ensuring that, where this section applies –
- (a) the applicant is invited to consent to the referral to the social services department of the essential facts of his case; and
  - (b) if the applicant has given that consent, the social services department is made aware of those facts and of the subsequent decision of the authority in respect of his case.
- (4) Nothing in subsection (2) or (3) affects any power apart from this section to disclose information relating to the applicant's case to the social services authority or to the social services department (as the case may be) without the consent of the applicant.
- (5) Where a social services authority –
- (a) are aware of a decision of a local housing authority that the applicant is ineligible for assistance, became homeless intentionally or became threatened with homelessness intentionally, and
  - (b) request the local housing authority to provide them with advice and assistance in the exercise of their social services functions under Part 3 of the Children Act 1989, the local housing authority shall provide them with such advice and assistance as is reasonable in the circumstances.
- (6) A unitary authority shall make arrangements for ensuring that, where they make a decision of a kind mentioned in subsection (5)(a), the housing department provide the social services department with such advice and assistance as the social services department may reasonably request.
- (7) In this section, in relation to a unitary authority –

'the housing department' means those persons responsible for the exercise of their housing functions; and  
 'the social services department' means those persons responsible for the exercise of their social services functions under Part 3 of the Children Act 1989.]<sup>1</sup>

## General provisions

### 214 False statements, withholding information and failure to disclose change of circumstances.

- (1) It is an offence for a person, with intent to induce a local housing authority to believe in connection with the exercise of their functions under this Part that he or another person is entitled to accommodation or assistance in accordance with the provisions of this Part, or is entitled to accommodation or assistance of a particular description –
- (a) knowingly or recklessly to make a statement which is false in a material particular, or
  - (b) knowingly to withhold information which the authority have reasonably required him to give in connection with the exercise of those functions.
- (2) If before an applicant receives notification of the local housing authority's decision on his application there is any change of facts material to his case, he shall notify the authority as soon as possible.
- The authority shall explain to every applicant, in ordinary language, the duty imposed on him by this subsection and the effect of subsection (3).
- (3) A person who fails to comply with subsection (2) commits an offence unless he shows that he was not given the explanation required by that subsection or that he had some other reasonable excuse for non-compliance.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## 215 Regulations and orders.

- (1) In this Part 'prescribed' means prescribed by regulations of the Secretary of State.
- (2) Regulations or an order under this Part may make different provision for different purposes, including different provision for different areas.
- (3) Regulations or an order under this Part shall be made by statutory instrument.
- (4) Unless required to be approved in draft, regulations or an order under this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## 216 Transitional and consequential matters.

- (1) The provisions of this Part have effect in place of the provisions of Part III of the Housing Act 1985 (housing the homeless) and shall be construed as one with that Act.
- (2) Subject to any transitional provision contained in an order under section 232(4) (power to include transitional provision in commencement order), the provisions of this Part do not apply in relation to an applicant whose application for accommodation or assistance in obtaining accommodation was made before the commencement of this Part.
- (3) The enactments mentioned in Schedule 17 have effect with the amendments specified there which are consequential on the provisions of this Part.

## 217 Minor definitions: Part 7.

- (1) In this Part, subject to subsection (2) –
  - ['private landlord' means a landlord who is not within section 80(1) of the Housing Act 1985 (c 68) (the landlord condition for secure tenancies);]<sup>1</sup>
  - 'relevant authority' means a local housing authority or a social services authority;

and

'social services authority' means a local authority for the purposes of the Local Authority Social Services Act 1970, as defined in section 1 of that Act.

- (2) In this Part, in relation to Scotland –
  - (a) 'local housing authority' means a local authority within the meaning of the Housing (Scotland) Act 1988, and
  - (b) 'social services authority' means a local authority for the purposes of the Social Work (Scotland) Act 1968.
- (3) References in this Part to the district of a local housing authority –
  - (a) have the same meaning in relation to an authority in England or Wales as in the Housing Act 1985, and
  - (b) in relation to an authority in Scotland, mean the area of the local authority concerned.

ISBN 978-1-78519-029-2

Crisis UK (trading as Crisis). Registered Charity  
Numbers: E&W1082947, SC040094. Company  
Number: 4024938

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