

The Homelessness Act 2002

The Homelessness Act 2002 amends Parts VI and VII of the Housing Act 1996, which sets out the current legislative framework for assisting homeless people and allocating social housing. There have been several changes and additions to the Housing Act 1996 and these changes reflect the Government's new approach to tackling homelessness. The new Act aims to create an environment in which homelessness services can move away from short-term crisis management towards a longer-term strategy, based on early intervention and the development of support services to help those who have been rehoused to sustain their new homes.

This shift in service provision, at a local government level, occurs alongside the establishment of a Homelessness Directorate within the Office of the Deputy Prime Minister and a new ministerial committee set up to focus on Homelessness across government. In addition the Government (DTLR) has recently published a report *More than a Roof* (March 2002), reporting on the problem of homelessness and stating new approaches to tackling it. Concurrently the Secretary of State made a statement outlining these new approaches and highlighting the Government's commitment to ending the use of bed and breakfasts. Shelter believes that "taken together these developments indicate that homelessness is moving up into the political agenda and into the mainstream of social policy" (www.homelessnessact.org.uk).

Introduction

Shelter believes that the Homelessness Act 2002 represents a once-in-a-generation opportunity to change how homelessness is tackled in this country. To this end we have committed considerable resources both financial and human, in a campaign aimed at promoting the Act and working in partnership with all local authorities and other relevant local agencies throughout England, to ensure that the Act is effectively implemented and makes the greatest possible difference to homeless people.

Kristine Reeves

Campaigns Officer, Norfolk and Cambridgeshire

Main aims of the Act

- To require that local housing authorities take a more strategic, multi-agency approach to the prevention of homelessness and to the rehousing of homeless households.
- To ensure that everyone accepted as unintentionally homeless and in priority need is provided with suitable accommodation until they obtain a settled home.
- To allow local authorities greater flexibility in assisting non-priority homeless households with a strengthened duty to provide advice and assistance and new powers to secure accommodation where it is possible.
- To facilitate lettings policies, which offer more choice to homeless people and others in housing, need. This aims to promote sustainable communities, make better use of national housing stock and challenge social exclusion.

Changes in the Act:

Several amendments in the Housing Act 1996 have been made to enable these aims. The main changes are:

- New duties on local authorities to conduct reviews and publish strategies to tackle and prevent homelessness.
- A new duty on local authorities to provide long term accommodation for unintentionally homeless people in priority need. Also other reforms to strengthen the homelessness safety net
- The extension of priority need categories to include new groups of vulnerable homeless people
- Reforms to the framework for allocating social housing.

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The following gives specific areas, which the new Homelessness Act has impacted, with the Sections and Schedule amendments and additions given where appropriate.

Reviews and strategies:

- Section 1 of the Homelessness Act 2002 (**Duty of local housing authorities to formulate a homelessness strategy**), is concerned with homelessness reviews and strategies and the new duty placed on local authorities to conduct them. Each local housing authority has a duty to carry out a homelessness review for its district and base a homelessness strategy upon the review findings. The strategy must be published within one year of the Act coming into force (i.e. by July 2003) and kept under review. A new strategy must be published at least once every five years thereafter.
- Section 2 of the Act (Homelessness reviews) defines a homelessness review to be conducted by the local authority. The Review is an assessment of the levels, and future levels, of homelessness in its district. It must also examine activities which are carried out or contribute to: preventing homelessness; securing accommodation for people that become homeless; providing support for people who are or may become homeless or who need support to prevent them becoming homeless again.
- The Review needs to take account of the resources available to the local housing authority, other public authorities, voluntary organisations and any other people that contribute to the above activities. Once the review is completed it must be made available to the public for inspection without charge, although copies may be available at a reasonable charge.
- Section 3 of the Act (Homelessness strategies) describes the elements of a homelessness strategy developed on the outcomes of the review. The strategy must have elements for: preventing homelessness; securing sufficient appropriate accommodation for those that are and maybe homeless; providing satisfactory support for people who are or may be homeless
- The local authority must work with social service authorities to develop the strategy but must also work with other agencies, including public bodies, voluntary sector organisations and individuals, to meet the objectives of the strategy. This means there is now a greater onus on working in partnership and in supporting a variety of organisations working with specific client groups. Indeed the strategy can be used to identify any specific action to be taken by other agencies outside of the local housing authority.

Main duty to provide housing

- Section 6 is concerned with the abolition of minimum period for which an authority is subject to main homelessness duty. The previous housing act placed a two-year limit on the main homelessness duty for people who were not intentionally homeless, eligible for assistance and in priority need. This has now been abolished and the main homelessness duty now continues until a defined event brings it to an end.
- Section 7 defines the events that cause the main homelessness duty to cease and this has been amended to include an offer of a secure tenancy or a 'qualifying' offer of an assured shorthold tenancy

Priority Need

The new Homelessness act 2002 has extended the categories of people with a priority need for accommodation; the list now includes:

- 16 and 17 year olds, other than those for whom social Services are responsible for accommodating
- Care leavers under the age of 21 (with very limited exceptions)
- People who are vulnerable as a result of fleeing violence or threats of violence
- People who are vulnerable as a result of a prison, armed forces or care background

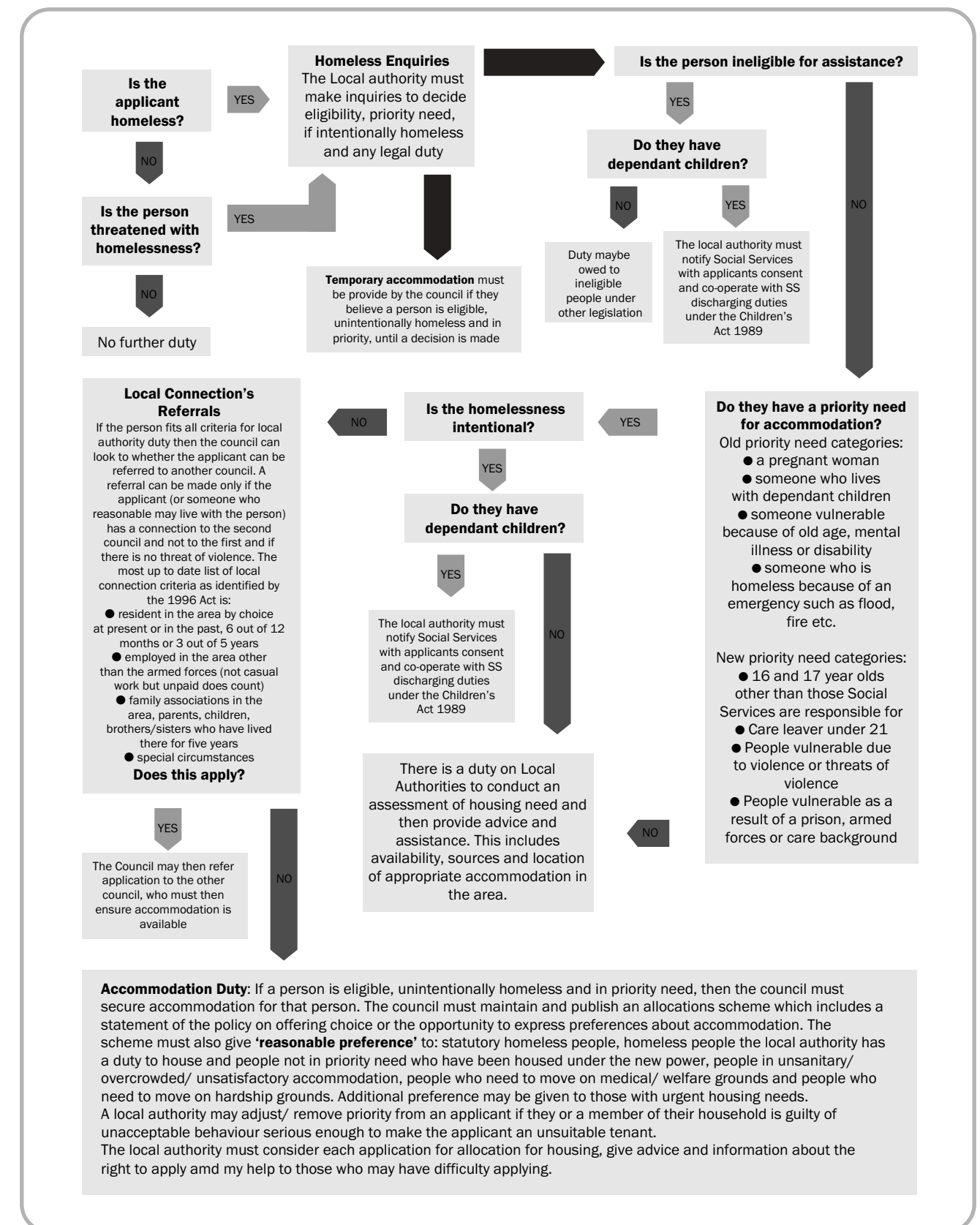
Homeless People Not in Priority Need

The Act strengthens the duty of local authorities to assist people who are not in priority need and are homeless of threatened with homelessness, in a number of ways:

- Schedule 1 defines the advice and assistance duty that should be conducted by local authorities, which must include information about the availability, location and sources of accommodation appropriate to clients needs. It also stipulates that an assessment of need that should be carried out before advice and assistance is offered.
- Section 5 of the Act, is concerned with the provision of accommodation for persons not in priority need who are not homeless intentionally. This section changes the previous act by giving local authorities the power to ensure that accommodation is available for those people who are eligible for assistance are unintentionally homeless and not in priority need. It also gives the local authorities power to take reasonable steps to prevent people threatened with homelessness who are not in priority need, losing their current accommodation.

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The following diagram is a simplified version of the ROOF Homelessness Wallchart, it gives a good step by step guide through the questions and stages of applying to local authorities for advice and/or assistance with housing.



Allocation of Housing

There have been several significant changes to the legal framework governing the allocation of housing with the aim of increasing flexibility of local authorities to developing alternative approaches to lettings. The major changes are:

- The previous duty to maintain a single housing register has been abolished and the Act creates a new general right to be considered for housing
- Advice and information must be available about the right to apply for accommodation and must provide necessary assistance for those who may have difficulty on applying
- Local authorities must publish and maintain an allocation scheme that sets out their policy for determining the priority given to individuals. It must include a statement of the local authority's policy on giving choice to applicants or allowing them to express a preference in their housing allocation.
- There are new eligibility criteria for applying for accommodation. People maybe ineligible due to immigration status or failure to pass the habitual residence test. They may also be deemed ineligible if they are guilty of unacceptable behaviour that makes them unsuitable to be a tenant.
- The Act maintains the principle that allocation of housing must give priority to those most in need. However it has made amendments to the groups to whom reasonable preference should be given. The list now includes: homeless people, people living in unsanitary/ overcrowded/ unsatisfactory housing, those who need to move on medical grounds and those who need to move to prevent hardship
- Local authorities retain the right to amend/ remove priority for persons/ households who are guilty of unacceptable behaviour that make then unsuitable tenants.

Decisions, Reviews and Appeals

Currently the applicant has the right to request a review within 21 days of being notified of the following decisions:

- eligibility for assistance
- whether a duty is owed to the applicant
- any 'local connection' referrals
- the suitability of accommodation offered

The council must carry out that review within 56 days and whilst the review is pending the local authority has the power to house the applicant, however if the local authority refuses the applicant can challenge this through a judicial review in the High Court.

The council must notify the applicant in writing of the outcome of the review, the reasons for refusal and the right to appeal to a county court. An appeal to the County court must be made within 21 days of being notified of the review decision. Under the new Homelessness Act 2002 this period for appeal can now be extended with the permission of the court.

Pending an appeal the local authority has the power to accommodate the applicant and where the local authority refuses to accommodate and applicant they may challenge this through the County Court (previous to the Homelessness Act 2002 this had to be challenged through the High Court).

Acknowledgements

This report was produced by VHG and written by Rebecca Foreman of the Cambridge Homeless Partnership with the co-operation of Shelter.

Resources

www.homelessnessact.org.uk :

Shelter's excellent website dedicated to the Act provides continually updated detailed information, practical help and a secure forum for sharing ideas on best practice.

Also available is a free phone advice line: 0808 800 4444, aimed primarily at service users.

'More than a Roof: a report into tackling homelessness' (March 2002), Office of the Deputy Prime Minister, Crown Copyright. Available from: www.housing.odpm.gov.uk/information/homelessness/morethanarroof

'Homelessness Strategies: a good practice handbook' (February 2002), Office of the Deputy Prime Minister, Crown Copyright. Available from: www.housing.odpm.gov.uk/information/homelessness/handbook/

For more information regarding Office of deputy Prime Minister – Housing and Homelessness reports please visit: www.housing.odpm.gov.uk

The ROOF Homelessness Wall Chart available from ROOF Wall Charts on 020 7505 2036

'A Review of Single Homelessness

Research' (November 2001), R. Sterling and S. Fitzpatrick, CRASH. Available from: www.crash.org.uk This provides summaries and bibliographic details of all single homeless research from 1999- 2000; a very useful guide in tracking down the right resource.

www.odpm.gov.uk

For the Office of the Deputy Prime Minister and the statutory homelessness statistics.

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