

## Applying for help as a homeless person

This information is for professionals working in housing and homelessness.

### Out of hours homeless help

Contact the out-of-hours homeless service by calling [03448 920 908](tel:03448920908).

The out-of-hours service can arrange temporary accommodation if there is reason to believe the person is homeless and that person has priority need.

### Making a homeless application

A homeless application does not have to be in a particular form.

A person should call the Housing Executive on [03448 920 908](tel:03448920908) to ask for help. The Housing Executive will appoint a housing officer to the case. This adviser must establish if there is reason to believe the applicant is homeless or threatened with homelessness, and open a homelessness assessment.

The Housing Executive must make further inquiries where they have reason to believe that an applicant is homeless or is threatened with homelessness.<sup>[1](#)</sup>

### Footnotes

- [1] Housing (Northern Ireland) Order 1988, Article 7.

## Reason to believe and gatekeeping

Not everyone is entitled to a homelessness assessment. But the Housing Executive is expected to make inquiries if they have reason to believe that a person is homeless or threatened with homelessness.

Courts have held that “...in the vast majority of cases, the making of the application will mean that it is difficult if not impossible for the Council not to believe that the applicant may be homeless or threatened with homelessness.”<sup>2</sup>

The NIHE Homelessness Guidance Manual stresses that staff should not deter someone from making a homeless application or fail to open an assessment where there is reason to believe the person may be homeless or threatened with homelessness.<sup>3</sup>

An applicant can challenge a decision not to open a homelessness assessment by taking a judicial review.

## Footnotes

- [2] [//www.bailii.org/ew/cases/EWHC/Admin/2007/52.html](http://www.bailii.org/ew/cases/EWHC/Admin/2007/52.html).
- [3] Northern Ireland Housing Executive, Homelessness Guidance Manual, Chapter 1.3.1.

## The homelessness assessment

A Housing Executive housing officer will open a homelessness assessment for a person if there is reason to believe they may be homeless.

This assessment will determine what, if any, responsibility the Housing Executive has towards the person.

The Housing Executive will investigate whether the applicant passes the 4 homelessness test. These are sometimes referred to as the "homeless hurdles". The four homelessness tests assess whether an applicant is:

- eligible for assistance
- homeless or threatened with homelessness
- in priority need

- unintentionally homeless

An applicant who meets all these requirements is a full duty applicant. This means the Housing Executive accepts a responsibility to provide the applicant with housing.

The applicant should bring information to support their case. This may include:-

- notice to quit from a landlord
- proof of any disabilities or serious medical issues
- passport or other proof of their right to reside in Northern Ireland.

The Housing Executive uses a housing solutions and support approach with applicants. This approach aims to find the most appropriate solution to housing issues.

A housing solutions approach should not interfere with or delay the Housing Executive's statutory duty to make inquiries where a person appears to be homeless.

## **The housing solutions interview**

The objective of a housing solutions interview is to get a full understanding of the applicant's circumstances, needs and housing issues. The applicant should get an opportunity to explain any housing and support needs they have.

Before the housing solutions interview, the housing officer will check if the applicant has:-

- an existing homeless or housing application
- a previous homeless or housing application
- any history of antisocial behaviour
- any history of rent arrears

The housing officer must open a homelessness assessment if there is any reason to believe the applicant may be homeless or threatened with homelessness. The housing officer must simply have reason to believe there may be a risk of homelessness, rather than having to be satisfied of this fact.

### **Adviser decides not to assess a person for homelessness**

The Housing Solutions Handbook encourages the housing officer to explain why they are not opening a homelessness assessment if it seems appropriate to do so, for example, if the person thinks they should be assessed for homelessness.

The applicant should ask for this decision in writing and get advice about challenging the decision.

## **Getting help with a homeless application**

Some people may need help to make a homeless application.

A person should not be stopped from having a friend, family member or professional attend with them when they present as homeless to the Housing Executive.

## **The homelessness assessment**

An applicant is homeless if: [4](#)

- they have no accommodation in Northern Ireland or elsewhere, or
- they have to leave their current accommodation within 28 days, or
- it is not reasonable for them to continue to occupy their current accommodation

The housing officer should consider:

- where the applicant is currently residing and whether that should be categorised as 'accommodation'
- whether the person has a right to occupy the accommodation they currently reside in
- the person's most recent settled address if it is not their current residence
- whether there is accommodation outside of Northern Ireland that the person could reasonably occupy

## **Having no accommodation**

- an applicant should be treated as homeless if:
- their accommodation cannot be occupied by them and anyone else who could reasonably be expected to live with them
- they cannot gain entry to their accommodation

- occupying their accommodation is likely to lead to violence or threats of violence from someone else living in the accommodation
- their accommodation is a moveable structure, like a caravan or houseboat, and they have no place to pitch or moor it<sup>5</sup>

Temporary housing, such as a night shelter or domestic abuse refuge, is not considered accommodation.<sup>6</sup>

## **Right to occupy**

An applicant can only be treated as having accommodation if they have a right to reside in that accommodation.<sup>7</sup> This right to occupy can come from:

- a legal interest in the accommodation as the tenant or owner
- a legal interest in the accommodation by a court order
- an express or implied right of occupation, such as a licence to occupy or permission from the owner or tenant
- a right to live in the property or to stop someone else taking possession of it. For example, a private tenant who has received notice to quit, but whose landlord has not got a possession order.

A person has a right to occupy a property if they:

- have a tenancy of the property
- own the property and have not rented it to another person
- have a licence to occupy accommodation
- were given the accommodation as part of their employment contract
- live in residential or supported accommodation
- got a court order allowing them to live in the property, like an occupation order

## **Settled address**

The homelessness assessment looks at the applicant's most recent settled address. This is not necessarily the place the applicant is currently staying.

A settled address should have a degree of permanence about it. The housing officer should look at the applicant's intention and behaviour when they moved into the dwelling. The courts have said 'what amounts to a "settled residence", is a question of fact and degree depending on the circumstances of each individual case.'<sup>8</sup>

For accommodation to be considered settled, the person must have intended to stay in the accommodation permanently.[9](#)

The person's intentions are not the only relevant factor to be considered. The Housing Executive must consider if the accommodation was[10](#) secure, suitable and permanently available to the person.

## **Accommodation outside Northern Ireland**

The housing officer must check if the applicant has accommodation available to them outside of Northern Ireland. The housing officer must check if:

- the accommodation would be available to the applicant and anyone else who could reasonably be expected to live with them, and
- it is reasonable for the applicant to continue to occupy that accommodation

A person who left accommodation in another country which they could reasonably have continued to occupy may be found to be intentionally homeless.[11](#)

The courts have confirmed that having no accommodation includes those who live in temporary accommodation like hostels and refuges. It also includes those who have no shelter and are sleeping rough.[12](#)

A person who has suitable, accessible accommodation abroad is not usually homeless even if their life is in the UK.[13](#)

## **Footnotes**

- [4] The Housing (Northern Ireland) Order 1988, Article 3.
- [5] The Housing (Northern Ireland) Order 1988, Article 3 (5).
- [6] Birmingham City Council v Ali & Ors [2009] UKHL 36, Birmingham City Council v Ali & Ors [2009] UKHL 36 (1 July 2009) (bailii.org).
- [7] The Housing (Northern Ireland) Order 1988, Article 3 (2).
- [8] Regina v Harrow London Borough Council Ex Parte Fahia, [1998} HL 16.
- [9] Knight v Vale Royal Borough Council [2003] EWCA Civ 1258,31.
- [10] Doka v London Borough of Southwark [2017] EWCA Civ 1532.
- [11] See Ciftci v London Borough of Haringey [2021] EWCA Civ 1772.
- [12] R v Waveney DC ex parte Bowers (1982) 4 HLR 118, CA.
- [13] Begum (Nipa) v Tower Hamlets LBC (1999) 32 HLR 445, CA.

# Footnotes