Housing Rights

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Temporary accommodation

This information is for professionals working in housing and homelessness in Northern Ireland.

If you are a member of the public looking for help, please visit our housing advice pages.

Duty to provide temporary accommodation

The Housing Executive has a duty to provide temporary accommodation to people:

- in some circumstances, while their homelessness application is being assessed, and
- who pass all four homelessness tests and are waiting for an offer of social housing

Interim duty to accommodate

In some circumstances, the Housing Executive must provide temporary accommodation while investigating a homeless application. This duty only arises if it has reason to believe that the applicant may be:1

- homeless and
- in priority need

This is often referred to as the duty to provide interim accommodation.

The Housing Executive must be satisfied that a person is eligible for assistance before it can provide interim accommodation.

The duty to provide interim accommodation arises:

- before the Housing Executive makes its full inquiries
- at any point after a person presents as homeless
- even if it appears that the applicant might have contributed to their homelessness

Threshold to trigger duty to provide temporary accommodation

The threshold to trigger the duty to provide temporary accommodation is low.

Case law tells us that, simply approaching the Housing Executive for help '[…] will mean that it is difficult if not impossible for the council not to believe that the applicant may be homeless or threatened with homeless […] if it is apparent from what is said by an applicant ... or from anything in writing that he may be homeless or threatened with homelessness, the duty is triggered'.2

No duty to provide interim accommodation

The Housing Executive is not required to provide temporary accommodation to a person who presents as homeless if:

- it is immediately clear that the person is not eligible for assistance3
- there is no suggestion that the person may have priority need

The Housing Executive should provide interim temporary accommodation if it is satisfied a person may be:

- eligible
- homeless and
- in priority need.

Suitability of temporary accommodation

The Housing Executive must provide suitable accommodation when discharging its duty.

The suitability of accommodation will depend on:

- size of the property
- condition of the property
- risks to the applicant in the accommodation, for example, domestic abuse
- whether the property is affordable[4]
- the length of time someone is likely to stay in the accommodation[5]

The Housing Executive should also:

- consider the need to promote and safeguard the welfare of any children in the household[6]
- avoid using non-standard temporary accommodation. For example, bed and breakfasts or hotels, unless it is an emergency.
    - Anyone in this accommodation should be moved as soon as possible.[7]

The Housing Executive has not discharged their duty if it tells a person to queue for a night shelter space. This is often called a crash bed, and the person must leave the accommodation during the day.[8]

It can be difficult to find suitable temporary accommodation. The Housing Executive has a limited supply of properties and a lot of demand for spaces. Applicants struggling to access temporary accommodation should get advice from Housing Rights.

Behavioural agreements in temporary accommodation

The Housing Executive asks people in temporary accommodation to sign a behaviour statement. This sets out the expected behaviour standards in the accommodation.

A person who engages in unacceptable behaviour while in interim accommodation may be found ineligible for assistance.

Ending the duty to provide temporary accommodation

The duty to provide interim accommodation ends if the person:

- fails one of the four homelessness tests
- passes all four homelessness tests
    - The Housing Executive then has a full duty to provide suitable accommodation. This is in place until they make an offer of permanent accommodation

Temporary accommodation after a negative homeless decision

When an applicant receives a negative homeless decision, the Housing Executive's duty to provide interim accommodation ends. However, the Housing Executive should provide temporary accommodation for a reasonable period afterwards to allow the person to find their own housing[9.] How long is reasonable depends on the circumstances of the applicant.

The Housing Executive can provide temporary accommodation for longer after a negative decision. This is not a statutory duty, but the Housing Executive can use its discretion if the applicant:

- requests a review of the negative decision or
- is appealing the decision in court

Continuing to provide temporary accommodation pending review

The Housing Executive is not required to keep providing temporary housing once they have made a negative homeless decision. They can use their discretion to continue to provide temporary accommodation if the applicant:

- requests a review of the negative decision
- is appealing the decision in court

The applicant must ask the Housing Executive to let them remain in temporary accommodation pending the outcome of the review.

The Housing Executive should consider:[10]

- the merits of the person’s case
- any new information or evidence which may influence the decision on review
- the personal circumstances of the applicant

Types of temporary accommodation

The Housing Executive uses different types of temporary accommodation, including:

- Voluntary sector hostels
- Housing Executive owned hostels
- Dispersed intensively managed emergency (DIME) accommodation for users with high support needs
- Single-lets (units leased from private landlords or companies)
- Non-standard temporary accommodation (hotels and bed and breakfasts)

The Housing Executive should manage placements well and save hostels and DIME accommodation for people with additional support needs.

Hostels

The Housing Executive and voluntary organisations manage hostels including:

- refuges for people who have experienced domestic violence
- family hostels for homeless families
- probation hostels (approved accommodation) for people leaving custody
- wet hostels where use of alcohol and certain substances is permitted
- dry hostels where residents are not allowed to use intoxicating substances
- night shelters where residents are given a bed for one night only

Some hostels provide different types of accommodation. Residents move through these as they prepare to return to independent living.

Finding a hostel space

There is a range of hostels in Northern Ireland. People can self-refer to certain hostels, while others will need a referral.

If the Housing Executive has no duty to provide temporary housing, they may give a person a list and tell them to phone each to find a place.

These are often called self-referral hostels. As demand for them is high, it can be difficult to find a space in one.

DIME accommodation

Dispersed intensively managed emergency or DIME accommodation accommodates people with high support needs.

Queens Quarter Housing or Simon Community provide most DIME places in Northern Ireland.

Single-lets

Single-lets are houses owned by private landlords. The Housing Executive rents these properties and use them to accommodate homeless people.

Large private companies, such as Tarasis Enterprises, often manage single-lets. The company will deal with the resident and the Housing Executive.

Non-standard temporary accommodation

Non-standard temporary accommodation should only be used in emergencies. This includes hotels and bed and breakfasts.

Person sources their own temporary housing

Some people arrange their own temporary housing. They may stay with family or friends, or arrange a short-term let.

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The applicant should speak to their housing officer before taking a private let. They must tell the Housing Executive this is temporary. This will ensure they are still provided with homeless support.

A person is not entitled to interim accommodation points if they arrange their own temporary housing.

Status of occupiers of temporary accommodation

A person living in temporary accommodation is a licensee and not a tenant. The Housing Executive will usually ask the person to sign a:

- statement of behaviour and
- licence agreement for their temporary accommodation

The licence agreement will set out the terms and conditions for their occupation. Licensees have very few rights. The provider can:

- move them from one room or flat to another
- give them whatever notice to quit is set out in the licence agreement

A licensee is only entitled to “reasonable” notice before being told to leave a property unless their agreement says otherwise.

If a person is told to leave temporary accommodation, the Housing Executive must:

- find another placement, or
- decide they are ineligible if they were asked to leave because of unacceptable behaviour

Paying for temporary accommodation

A person in temporary accommodation can apply for Housing Benefit to help cover the costs.

If a person is not entitled to Housing Benefit, they must pay the cost themselves.

Repairs in temporary accommodation

The fitness standard applies to temporary accommodation. There are no additional suitability standards for temporary housing, unless it is a house in multiple occupation (HMO).

Council officers can inspect a property if the person living in it complains about conditions. If there is a statutory nuisance, the council may be able to serve an abatement notice.

The person should contact NIHE with details of their concerns if the landlord or council fails to deal with problems. They could:

- argue that the current accommodation is unsuitable for their needs
- make a formal complaint to the Housing Executive
- ask for more points under the Housing Selection Scheme in recognition of the disrepair

Temporary accommodation for people who are difficult to place

It can be difficult to find suitable accommodation for:

- large families
- people with a disability with specific needs
- people with a history of arson
- people who have been convicted of certain sexual offences

The Housing Executive's duty to accommodate someone who has passed the four homelessness tests is absolute. The Executive cannot opt out of this duty because it is difficult to find a placement.

The Housing Executive has a sexual offender liaison officer. They can help to find accommodation for a person who has committed a Schedule 1 offence.

Challenging an offer of interim accommodation

Interim accommodation is temporary accommodation offered to applicants while their homelessness application is being assessed.

An applicant may be unhappy with the interim accommodation they’re offered. Applicants do not have the right to request a statutory review of the suitability of temporary accommodation while a homelessness assessment is ongoing.

If they wish to challenge the offer, they can make a complaint to the Housing Executive.

Read more about the Housing Executive's complaints procedure.

In exceptional circumstances, applicants may be able to request a judicial review of the suitability of temporary accommodation.

To request a judicial review, an applicant needs expert legal representation and should c**ontact Housing Rights** for advice.

NIHE duties while an applicant challenges an interim accommodation offer

The Housing Executive will not hold a temporary accommodation offer while an applicant makes a complaint about its suitability. They will offer the accommodation to another homeless applicant.

If the Housing Executive is satisfied that the temporary accommodation offer was suitable, it may not make another offer while assessing the homeless application. [11]

They may make another temporary accommodation offer in exceptional circumstances. For example, if the applicant is particularly vulnerable or there are children in the household.[12]

Homeless applicants can make a formal complaint while living in temporary accommodation they do not believe is suitable. They should tell the Housing Executive that they intend to challenge the offer while occupying it.

Applicants should **contact Housing Rights** for advice if they:

- want to challenge an offer of temporary accommodation, or
- have turned an offer down and the Housing Executive refuses to make further offers

Homeless applicants should think carefully before turning down a temporary accommodation offer while their homelessness assessment is ongoing. There is a risk the Housing Executive will not make another offer of temporary accommodation. If the applicant has no other accommodation options, they risk having nowhere to stay.

Challenging a temporary accommodation offer made to a full duty applicant

The Housing Executive has a statutory duty to provide suitable accommodation to people awarded full duty applicant status following a homelessness assessment. [13]

This includes providing suitable temporary accommodation while applicants wait for an offer of permanent accommodation.[14]

Challenging an offer of temporary accommodation made to a full duty applicant

If a full duty applicant believes that the accommodation offered to them does not meet their needs, they can request a statutory review of the offer..[15]

Applicants can request a review of the suitability of temporary accommodation within 40 days of the offer. The Housing Executive has eight weeks to make their decision when carrying out a review.[16]

The Housing Executive will not hold a temporary accommodation offer while a review of its suitability is carried out. They will offer the accommodation to another homeless applicant.

The Housing Executive does not usually make any further offers of temporary accommodation during the review process. Applicants must find their own accommodation during the review process if they do not move into the temporary accommodation offered.[17]

A full duty applicant can request a review of temporary accommodation while occupying it. They should tell the Housing Executive that they will:

1. move into the accommodation, but
2. will challenge its suitability

This may be the best course of action for an applicant if they have no other accommodation options.

The Housing Executive may consider making another offer of temporary accommodation in exceptional circumstances. If NIHE refuses to provide temporary accommodation to a full duty applicant during the review process, it

may be possible to challenge this decision. Applicants in this situation should **contact Housing Rights** for advice.

Temporary accommodation offers to a full duty applicant when the review process is complete

Temporary accommodation offers resume after the Housing Executive reviews the decision. The Housing Executive will offer further accommodation whether the review is successful or not.18

If the review is successful, the Housing Executive should make an offer of temporary accommodation that meets the applicant's needs. For example, if NIHE accepts that an offer of temporary accommodation with stairs was unsuitable, the next temporary accommodation offer should be on the ground floor or in a property with a lift.

If the review is unsuccessful**,** the Housing Executive will continue to offer accommodation like the original offer.

Applicants who do not request a review of unsuitable temporary accommodation

Applicants who turn down an offer of temporary accommodation without requesting a review will usually not receive further offers during the 40 days during which they can request a review.

The Housing Executive should make further offers of accommodation once the 40 days have passed if no review request is made.19

People sometimes refer to a ’40-day ban’ on temporary accommodation. There is no absolute 40-day ban on temporary accommodation during the period in which a review can be requested. NIHE should consider each case individually based on the circumstances of the applicant. Applicants should **contact Housing Rights** for advice if the Housing Executive refuses to make another offer of temporary accommodation during these 40 days.

Footnotes

- [1]

The Housing (Northern Ireland) Order 1988, Article 8.

- [2]

  Aweys & Ors, R (on the application of) v Birmingham City Council [2007] EWHC 52 (Admin), [2007] HLR 27.

- [3]

  The Housing (Northern Ireland) Order 1988, Article 7A.

- [4]

  Northern Ireland Housing Executive, Homeless Guidance, Chapter 7.6.

- [5]

  Codona v Mid-Bedfordshire DC [2005], [2004] EWCA Civ 925.

- [6]

  Nzolameso v City of Westminster (Respondent) [2015] UKSC 22.

- [7]

  The Northern Ireland Housing Executive, Homelessness guidance, Chapter, 2.1.3.

- [8]

  R v Waveney DC ex p Bowers [1983] 1 QB 238, 4 HLR 118.

- [9]

  The Housing (Northern Ireland) Order 1988, Article 10(3)(a).

- [10]

  R v. Camden ex parte Mohammed [1997] 30 HLR 315.

- [11]

  Northern Ireland Housing Executive, Landlord Services Advice Note, LSAN (HSG) No.08/21.

- [12]

Northern Ireland Housing Executive, Homeless Policy Team, mail to Housing Rights, Monday 18 October 2021.

- [13]

  The Housing (Northern Ireland) Order 1998 Articles 10, 11 and 12.

- [14]

  Northern Ireland Housing Executive, Homeless Guidance Manual, Chapter 7.6.

- [15]

  The Housing (Northern Ireland) Order 1998 Article 11A(c).

- [16]

  The Homelessness (Review) Regulations (Northern Ireland) 2010, Regulation 5.

- [17]

  The Homelessness (Review) Regulations (Northern Ireland) 2010, Regulation 2.

- [18]

  The Homelessness (Review) Regulations (Northern Ireland) 2010, Regulation 3.

- [19]

  The Homelessness (Review) Regulations (Northern Ireland) 2010, Regulation 4(2).