Housing Rights

https://www.housingrights.org.uk/professionals/advice-and-information/homelessness-advice-professionals/priority-need

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Priority need test

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.

Categories of priority need

A person has priority need if they or anyone in their household is:1

- pregnant
- the primary carer of a child
- vulnerable
- homeless or threatened with homelessness because of an emergency
- have experienced violence and are at risk of further violence if they return home
- age 16-21 and at risk of sexual or financial exploitation

Pregnancy

A pregnant person is in priority need. The Housing Executive will ask for confirmation of pregnancy. This can include proof that this person has had antenatal care.

The Housing Executive should consider any other factor that gives the person priority need if their pregnancy ends before they were given full duty applicant status.2

Primary carer of a child

A person only has priority need if they have children and the children are dependent on them.

If children live between two or more households, the Housing Executive must decide where they reside. The Housing Executive will consider:

- the terms of any court order
- any informal custody agreement between the child's carers
- where the child usually lives

Vulnerability

A person has priority need if they are more vulnerable than an 'ordinary person' would be if they become homeless.3

An 'ordinary person' in this context means a person without vulnerabilities, for example, addiction.

A person has priority need if they are vulnerable due to:

- old age that makes them less able to take care of themselves
- mental health condition, learning or physical disability
- other specific reasons not set out in the law. This can include chronic illness, discharge from prison or hospital, or addiction. It can also include young people and former asylum seekers.

The Hotak test

The Hotak test was established after a Supreme Court case set out how decision makers should approach the priority need test. The Housing Executive will accept a person is in priority need if they appear to be 'significantly more vulnerable' than an ordinary person.4

The Housing Executive should assess a person's vulnerabilities based on their ability to cope with street homelessness. Not how they manage in their current accommodation.

The Housing Executive must consider how the person would manage compared to ‘an ordinary person’ who is in need of accommodation.

Support from household or others

The Housing Executive can take into account any support the person currently gets. They should consider whether this support will still be available to them if they become homeless. The Housing Executive must be satisfied that support and services will continue on a predictable and regular basis.[5]

The Housing Executive cannot decide that a person is not vulnerable because other people in the household are able and willing to take care of the vulnerable person’s needs.[6]

Medical evidence for homeless decisions

Medical evidence can help to show that a person has priority need. It can also show that it is not reasonable for them to stay in their current accommodation.

Medical evidence usually helps a decision maker if it shows the:

- person’s ability to cope if they were homeless for the priority need test
- impact that the person’s home is having on their health for the homelessness test

Medical evidence that only lists a person’s diagnoses or medications is not useful for homelessness assessments.

A useful medical letter supporting a person’s homelessness application should explain:

- how the doctor or health professional knows the person and for how long
- the person’s diagnoses and how these affect the person
- any medications that are prescribed and the dose
- the effect that being street homeless might have on the person and the reasons for this

Unable to get satisfactory medical evidence

Some medical professionals may refuse to provide a person with medical evidence. You may see signs in surgeries advising people not to ask for this

information. The Housing Executive has a statutory duty to make inquiries to satisfy itself that a person is homeless and in priority need.7

Advisers should hold the Housing Executive to this duty if the person cannot supply evidence themselves. The Housing Executive can ask medical professionals for information as part of their inquiries.

Giving weight to medical evidence

The Housing Executive must consider and evaluate all evidence the applicant submits. If the Housing Executive favours one piece of evidence over others, they must explain why. 8They should respond to specific points made in the medical evidence.

The Housing Executive's role is to look at medical evidence in the context of its statutory duties. It should not simply 'rubber-stamp' any medical opinion it receives.9

Footnotes

- [1]

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

- [2]

  Northern Ireland Housing Executive, Homelessness Guidance, Chapter 5.2.

- [3]

  Hotak and others (Appellants) v London Borough of Southwark and another (Respondents).

- [4]

  Hotak v London Borough of Southwark, [2015] UKSC 30.

- [5]

  Hotak v London Borough of Southwark, [2015] UKSC 30,

- [6]

  Hotak v London Borough of Southwark, [2015] UKSC 30.

- [8]

  Guiste v Lambeth LBC (2019) WECA Civ 1758.

- [9]

  Osmani v Camden LBC [2004] EWCA Civ 1706