

# Homeless or at risk of homelessness?

## The Council's duties explained



Homelessness law is very complex. This factsheet is intended to be a short summary of the Council's duties to you if you are homeless or at risk of homelessness and it tries to explain some of the key terms you may come across.

New legislation, the Homelessness Reduction Act, has recently come into force. It means that English councils now have a legal duty to help all eligible applicants and not just those who are in most need.

The Council must help if you are legally homeless or threatened with homelessness. The type of assistance it must provide depends on your circumstances.

Contact the Council as soon as possible if you think you might be at risk of homelessness:

via our online [Homelessness and Housing Advice Portal](#) (see our Housing Advice and Homelessness Support pages at [www.north-herts.gov.uk](http://www.north-herts.gov.uk)) or phone 01462 474000 and ask to speak to the Housing Options team

### Making a homeless application

You can make a homeless application if you need housing assistance from the Council and the Council has reason to believe that you may be homeless or threatened with homelessness.

The Council will make inquiries to satisfy itself that you are homeless or threatened with homelessness and that you are eligible for assistance. You will usually be asked to come in for an interview to go through your situation. A member of the Housing Options team will contact you to arrange this and will explain to you what documents you need to bring with you.

You are considered **threatened with homelessness** if you are likely to be homeless within the next 56 days (8 weeks) or if your landlord has issued you with a valid section 21 notice seeking possession of the property.

You are considered **homeless** if you do not have accommodation that you have a legal right to occupy, which is accessible and physically available to you (and your household) and which it would be reasonable for you to continue to live in. The law provides detailed guidance on the interpretation of all these terms and how the Council should decide if you are homeless or not.

**Eligibility** for homelessness assistance requires you to meet immigration and residence conditions. Some people from abroad are not eligible for assistance – in these cases the Council will only have to provide general advice and information.

The Council will inform you in writing of its decision once it has completed its inquiries, including what duties if any are owed to you. Where a decision is a negative decision, the notification will explain clearly the reasons for the decision and your right to a review.

## Assessments and personalised housing plans

If the Council is satisfied that you are eligible for assistance and you are homeless or threatened with homelessness, it has a duty to carry out an assessment of your situation to look at:

- why you are homeless or facing homelessness;
- your housing needs and what accommodation might be suitable for you (and your household); and
- any support you might need in order to be able to secure and keep suitable accommodation.

Following this assessment, the Council will work with you to develop a personalised housing plan to try and keep you in your home or to help you find new accommodation. The Plan will include practical actions (**‘reasonable steps’**) which you must take and which the Council will take to try and achieve this. Depending on the assessment of your situation, you might for example be asked to take part in mediation or to attend an appointment with a debt advisor. The Council might be able to provide support to claim benefits, negotiate with your landlord or family or provide financial assistance to secure a private rented property.

## Prevention duty

If you are threatened with homelessness, help under the personalised housing plan is usually limited to 56 days (8 weeks). This will be provided under the Council’s duty to prevent homelessness. If your landlord has issued you with a section 21 notice however, the Council must usually help for as long as you are facing homelessness.

## Relief duty

If you are already homeless, help under the personalised housing plan is usually limited to 56 days (8 weeks). This will be provided under the Council’s duty to relieve homelessness.

If you become homeless whilst under the prevention duty, the Council will then owe you the relief duty. Your assessment and personalised housing plan will be reviewed to devise new reasonable steps which will help you to find alternative accommodation.

## When the prevention and relief duties come to an end

The law sets out the circumstances when the Council may stop providing assistance under these duties:

- you or the Council finds you suitable accommodation and there is a reasonable prospect that this will be available for at least six months;
- the Council has complied with the prevention or relief duty and 56 days have passed;
- you refuse an offer of suitable accommodation;
- you become homeless intentionally from any accommodation that has been provided to meet the duty;
- you deliberately and unreasonably fail to co-operate with the steps required of you in your personalised housing plan;
- you withdraw your application or we lose contact with you;
- you are no longer eligible for assistance.

## Local connection

If you do not have a local connection with North Herts, the law allows us to refer your case to the council where you do have a local connection at the point of the relief duty or main housing duty (see below).

You have a local connection with North Herts if you:

- have been resident in North Herts by choice for six out of the last 12 months or three out of the last five years; or
- are employed in North Herts (casual employment does not count); or
- have a close family member who is resident in North Herts and has been resident here by choice for the last five years; or
- have another special reason why you need to live in the district.

## Accommodation duties

### Interim accommodation duty

If the Council has reason to believe that you may be homeless, eligible for assistance and have a **priority need**, it has an interim duty (sometimes referred to as a 'section 188 duty') to accommodate you while it makes inquiries into your application. This temporary accommodation - which may have shared facilities - is usually somewhere in North Herts and owned by a

housing association. Sometimes we do have to accommodate people outside of the district if there is no temporary accommodation available in North Herts.

You are considered to be in priority need if:

- you or someone in your household is pregnant;
- you have dependent children who usually live with you;
- you are homeless because of domestic abuse;
- you or a member of your household is vulnerable because of old age, mental illness, physical or learning disabilities, time spent in prison or the armed forces; or because you are fleeing violence or for some other special reason;
- you are aged 16 or 17 (and are not a care leaver);
- you are a care leaver aged under 21 and have spent time in care arranged by social services when you were 16 or 17 years old;
- you are a care leaver aged 21 or older and are vulnerable as a result of having been in care;
- you are homeless due to an emergency such as fire or flood.

Note that most homeless 16 and 17 year olds are entitled to accommodation and support from social services (in our area, provided by Herts County Council) rather than the housing department of the Council.

### **Main housing duty**

If, following its inquiries, the Council decides that you are in priority need, eligible for assistance and homeless through no fault of your own (ie not intentionally homeless), the Council has a duty - also known as the 'main housing duty' – to provide you with suitable long-term accommodation. **You should be aware that this accommodation may be either in social housing or the private rented sector.**

Social housing is in high demand in North Herts, with around 2,000 households on the waiting list (Common Housing Register) at any one time. You may have to stay in temporary accommodation for a while until settled accommodation is found for you.

Note that the main housing duty will not apply if you have turned down a suitable final offer of accommodation made during the relief duty stage or if you have deliberately and unreasonably refused to co-operate with steps in your personalised housing plan.

The main housing duty will no longer be owed to you if:

- you refuse a final offer of social housing, an offer of accommodation in the private rented sector (known as a private rented sector offer) or an offer of suitable temporary accommodation; or
- you become homeless intentionally from accommodation made available to you under the main housing duty; or
- you voluntarily cease to occupy the accommodation provided under the main housing duty; or

- you are no longer eligible for assistance.