Version Control Sheet

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Version No:	Date	Details of Changes included in Update	Author
0.1	22 Feb	Publication	MHCLG
0.2	20 June	Changes to paragraph 7.12 ,10.41, 11.36, 14.30, 19.3 (c), (e) and 19.15 (a)	MHCLG
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0.5	12 April	Changes to paragraph 17.58, moved up to become longer 17.48. Change to paragraph 17.49 and 19.23	MHCLG
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0.26	18 November 2025	Change to 7.16	MHCLG
0.27	02 December 2025	Change to 7.41	MHCLG
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0.29	01 May 2026	Changes due to the Renters' Rights Act 25 to 13, 14, 15, 20; 6.3-6.10, 6.23-6.25, 6.30, 6.31, 6.33, 6.43-6.46; 11.23 a-i, 14.7, 14.13, 14.46; 15.36, 15.36, 15.38, 15.41; 16.20b, 16.21, 16.22, 16.24; 17.15 b, 17.66; and 18.16 a New paragraphs added to the Overview of legislation section 6 a-f, 7, 8; and 6.6, 6.9-6.12, 6.34, 6.35, 6.36-6.41; 11.24; 15.43; 8.18; Removal of 14.37, 14.48, 15.2 d, 15.36-15.38; Corrections to 7.16, 7.41	MHCLG
0.30	01 September 2026	New paragraph 9 added to Overview chapter. Change to 7.41. New paragraphs 18.38 – 18.51 in Chapter 18. Change to 21.4.	MHCLG
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0.32	15 October 2026	Changes following publication of the Equality and Human Rights Commission Code of Practice for Services, Public Functions and Associations, and the Supreme Court judgment on the meaning of sex in the Equality Act 2010. New definition and changes to 21.4, 21.44, 23.3, 25.25, 26.34. Correction to 21.45.	MHCLG

Ministry of Housing,
Communities &
Local Government

Homelessness Code of Guidance for Local Authorities

Ministry of Housing, Communities and Local Government

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Definitions

Throughout the code:

“the 1996 Act” means the Housing Act 1996;

“the 2002 Act” means the Homelessness Act 2002;

“the 2017 Act” means the Homelessness Reduction Act 2017;

“the housing authority” means the local housing authority;

“the code” means the Homelessness Code of Guidance for Local Authorities (2018);

“the Convention” means the European Convention on Human Rights;

“the Eligibility Regulations” means the Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006;

“personalised housing plans” means personalised plans;

“the 2002 Order” means the Homelessness (Priority Need for Accommodation) (England) Order 2002;

“the 2003 Order” means the Homelessness (Suitability of Accommodation) (England) Order 2003.

“sex”, “woman” and “man” means, respectively, biological sex, biological woman and biological man for the purposes of the Equality Act 2010.

Overview of the homelessness legislation

1 This overview provides a summary of the homelessness legislation and the duties, powers and obligations on housing authorities and others towards people who are homeless or at risk of homelessness. **It does not form part of the statutory code of guidance.**

Homelessness legislation

2 The primary homelessness legislation – that is, Part 7 of the Housing Act 1996 – provides the statutory under-pinning for action to prevent homelessness and provide assistance to people threatened with or actually homeless.

3 In 2002, the Government amended the homelessness legislation through the Homelessness Act 2002 and the *Homelessness (Priority Need for Accommodation) (England) Order 2002* to:

a. ensure a more strategic approach to tackling and preventing homelessness, in particular by requiring a homelessness strategy for every housing authority district; and,

b. strengthen the assistance available to people who are homeless or threatened with homelessness by extending the priority need categories to homeless 16 and 17 year olds; care leavers aged 18, 19 and 20; people who are vulnerable as a result of time spent in care, the armed forces, prison or custody, and people who are vulnerable because they have fled their home because of violence.

4 The Homelessness Reduction Act 2017 significantly reformed England's homelessness legislation by placing duties on local authorities to intervene at earlier stages to prevent homelessness in their areas. It also requires housing authorities to provide homelessness services to all those affected, not just those who have 'priority need.' These include:

a. an enhanced prevention duty extending the period a household is threatened with homelessness from 28 days to 56 days, meaning that housing authorities are required to work with people to prevent homelessness at an earlier stage; and,

b. a new duty for those who are already homeless so that housing authorities will support households for 56 days to relieve their homelessness by helping them to secure accommodation.

5 The Domestic Abuse Act 2021 amends Part 7 of the1996 Act to strengthen the support available to victims of domestic abuse. The Act extends priority need to all eligible victims of domestic abuse who are homeless as a result of being a victim of domestic abuse. The 2021 Act brings in a new definition of domestic abuse

which housing authorities must follow to assess whether an applicant is homeless as a result of being a victim of domestic abuse.

6 The Renters' Rights Act 2025 significantly reforms the private rented sector in England, including that provided by Private Registered Providers (such as housing associations), abolishing section 21 'no fault' evictions and replacing assured shorthold tenancies with assured periodic tenancies (rolling tenancies with no fixed end date). The reforms commenced on 1 May 2026, other than for social housing tenancies provided by Private Registered Providers, for which they will be commenced on a date to be confirmed in October 2027. The important reforms that will assist in preventing homelessness include:

a. enhanced rent control measures under which landlords can only increase rent once per year, and tenants can bring a legal challenge where a rent increase would mean the new rental amount exceeds the local market rate.

b. prohibition of rental bidding for prospective tenants.

c. greater protection from eviction, as landlords must use enhanced and stricter section 8 grounds and therefore need a valid reason to end a tenancy.

d. express provisions preventing landlords discriminating against households on benefits or with children.

e. landlords must now provide 4 months' notice for mandatory grounds of possession and satisfy stricter legal grounds.

f. enhanced enforcement powers for local authorities.

7 The Renters Rights Act also amended Part 7 of the Housing Act 1996 to reflect the abolition of section 21 and assured shorthold tenancies and to reflect the revised section 8 regime. Those changes were only made for tenancies for which the provision commenced on 1 May 2026. The law remains as it was for tenancies of social housing provided by Private Registered Providers. While the Act is being commenced for private landlords from 1 May 2026, it will only apply in relation to assured tenancies of social housing provided by Private Registered Providers from October 2027. Further details can be found in the 'Implementing the Renters' Rights Act: Social Housing'.

8 Also for all other tenancies where a valid section 21 or section 8 was issued before 1 May 2026, for a limited period. That limited period is:

- where a landlord has not made an application to the court for possession proceedings, 31 July 2026 or the deadline by which an application must have been made, whichever sooner;

- where a landlord has made an application to the court for possession proceedings when those proceedings conclude.

9 The Children's Wellbeing and Schools Act 2026 amends Part 7 of the Housing Act 1996 to introduce a duty on local housing authorities in England to notify relevant bodies when a child is placed in temporary accommodation. The relevant bodies are educational institutions, health visiting services and general medical practices. This duty will arise when the parent (including those who care for the child or have parental responsibility for the child), or the child themselves in cases of 16-17-year-olds living independently from their parents, agrees to the notification being made. This duty applies where a child is placed in temporary accommodation following an application under Part 7 of the Housing Act 1996 made on or after 1 September 2026.

Homelessness review and strategy

10 Under the Homelessness Act 2002, all housing authorities must have in place a homelessness strategy based on a review of all forms of homelessness in their district. The strategy must be renewed at least every 5 years. The social services authority must provide reasonable assistance.

11 The strategy must set out the authority's plans for the prevention of homelessness and for securing that sufficient accommodation and support are or will be available for people who become homeless or who are at risk of becoming so.

Duty to refer

12 The Homelessness Reduction Act 2017 introduced a duty on certain public authorities to refer service users who they think may be homeless or threatened with homelessness to a housing authority. The service user must give consent, and can choose which authority to be referred to. The housing authority should incorporate the duty to refer into their homelessness strategy and establish effective partnerships and working arrangements with agencies to facilitate appropriate referrals.

Duty to provide advisory services

13 The housing authority has a duty to provide advice and information about homelessness and the prevention of homelessness and the rights of homeless people or those at risk of homelessness, as well as the help that is available from the housing authority or others and how to access that help. The service should be designed with certain listed vulnerable groups in mind and authorities can provide it themselves or arrange for other agencies to do it on their behalf.

Applications and inquiries

14 Housing authorities must give proper consideration to all applications for housing assistance, and if they have reason to believe that an applicant may be homeless or threatened with homelessness, they must make inquiries to see whether they owe them any duty under Part 7 of the 1996 Act. This assessment process is important in

enabling housing authorities to identify the assistance which an applicant may need, either to prevent them from becoming homeless, or to help them to find another home. In each case, the authority will need to first decide whether the applicant is eligible for assistance and threatened with or actually homeless. Certain applicants who are 'persons from abroad' are not eligible for any assistance under Part 7 except free advice and information about homelessness and the prevention of homelessness.

15 Broadly speaking, a person is *threatened with homelessness* if they are likely to become homeless within 56 days. An applicant who has been served with a valid notice under the Housing Act 1988 is also threatened with homelessness, if the date specified in the notice is within 56 days and the notice is served in respect of the only accommodation that is available for them to occupy. For more details see Chapter 6.

16 In addition, an applicant is to be considered *homeless* if they do not have accommodation that they have a legal right to occupy, which is accessible and physically available to them (and their household) and which it would be reasonable for them to continue to live in.

Assessments and personalised housing plans

17 Housing authorities have a duty to carry out an assessment in all cases where an eligible applicant is homeless or threatened with homelessness. This will identify what has caused the homelessness or threat of homelessness, the housing needs of the applicant and any support they need in order to be able to secure and retain accommodation. Following this assessment, the housing authority must work with the person to develop a personalised housing plan which will include actions (or 'reasonable steps') to be taken by the authority and the applicant to try and prevent or relieve homelessness.

Prevention duty

18 Housing authorities have a duty to take reasonable steps to help prevent any eligible person (regardless of priority need status, intentionality and whether they have a local connection) who is threatened with homelessness from becoming homeless. This includes helping applicants to remain in their current accommodation where possible, or assisting them to secure alternative accommodation before they become homeless. The prevention duty continues for 56 days unless it is brought to an end by an event such as accommodation being secured for the person, or by their becoming homeless. The prevention duty may be extended beyond 56 days if the applicant continues to be threatened with homelessness, and must be extended if the duty is owed following service of a valid section 8 notice or section 21 notice, and the applicant continues to be threatened with homelessness.

Relief duty

19 If the applicant is already homeless, or becomes homeless despite activity during the prevention stage, the reasonable steps will be focused on helping the applicant to secure accommodation. This relief duty lasts for 56 days unless ended in another

way. If the housing authority has reason to believe a homeless applicant may be eligible for assistance and have a priority need they must be provided with interim accommodation.

Main housing duty

20 If homelessness is not successfully prevented or relieved, a housing authority will owe the main housing duty to applicants who are eligible, have a priority need for accommodation and are not homeless intentionally. Certain categories of household have priority need if homeless, such as pregnant women, families with children, and those who are homeless as a result of being a victim of domestic abuse or due to an emergency such as a fire or flood. Other groups may be assessed as having priority need because they are vulnerable as a result of old age, mental ill health, physical disability, having been in prison or care or as a result of becoming homeless due to violence. Certain care leavers cannot be found to have become homeless intentionally (for more details on the care leaver exemption, see Chapter 9).

21 Under the main housing duty, housing authorities must ensure that suitable accommodation is available for the applicant and their household until the duty is brought to an end, usually through the offer of a settled home. The duty can also be brought to an end for other reasons, such as the applicant turning down a suitable offer of temporary accommodation or because they are no longer eligible for assistance. A suitable offer of a settled home (whether accepted or refused by the applicant) which would bring the main housing duty to an end includes an offer of a suitable secure or introductory tenancy with a local authority, an offer of accommodation through a private registered provider (also known as a housing association) or the offer of a suitable tenancy for at least 12 months or an assured periodic tenancy from a private landlord made by arrangement with the local authority.

Suitable accommodation

22 Housing authorities have various powers and duties to secure accommodation for homeless applicants, either on an interim basis, to prevent or relieve homelessness, to meet the main housing duty or as a settled home. Accommodation must always be 'suitable' and there are particular standards set when private rented accommodation is secured for households which have priority need.

23 Under the *Homelessness (Suitability of Accommodation) (England) Order 2003*, Bed & Breakfast accommodation is not considered suitable for families with children and households that include a pregnant woman, except where there is no other accommodation available, and then only for a maximum of six weeks. The Secretary of State considers that Bed & Breakfast accommodation is unsuitable for 16 and 17 year olds.

Intentional homelessness

24 A person would be homeless intentionally where homelessness was the consequence of a deliberate action or omission by that person. A deliberate act might be a decision to leave the previous accommodation even though it would have been

reasonable for the person (and everyone in the person's household) to continue to live there. A deliberate omission might be non-payment of rent that led to rent arrears and eviction despite the rent being affordable. Certain care leavers cannot be found to have become homeless intentionally.

25 Where people have a priority need but are intentionally homeless the housing authority must provide advice and assistance to help them find accommodation for themselves and secure suitable accommodation for them for a period that will give them a reasonable chance of doing so.

26 If, despite this assistance, homelessness persists, any children in the household could be in need under the Children Act 1989, and the family should be referred (with consent) to the children's social services authority. For more detail on intentional homelessness, see Chapter 9.

Local connection and referrals to another authority

27 Broadly speaking, for the purpose of the homelessness legislation, people may have a local connection with a district because of residence, employment or family associations in the district, or because of special circumstances. (There are exceptions, for example, residence in a district while serving a prison sentence there does not establish a local connection.) Where applicants meet the criteria for the relief duty or for the main housing duty, and the authority considers that the applicant does not have a local connection with the district but does have one somewhere else, the housing authority dealing with the application can ask the housing authority in that other district to take responsibility for the case. However, applicants cannot be referred to another housing authority if they, or any member of their household, would be at risk of domestic abuse or violence (that is not related to domestic abuse) in the district of the other authority.

28 The definition of a 'local connection' for young people leaving care was amended by the Homelessness Reduction Act 2017 so that a young homeless care leaver has a local connection to the area of the local authority that looked after them. Additional provision is made for care leavers who have been placed in accommodation, under section 22A of the Children Act 1989, in a different district to that of the children's services authority that owes them leaving care duties. If they have lived in the other district for at least 2 years, including some time before they turned 16, they will also have a local connection with that district until they are 21.

Reviews and appeals

29 Housing authorities must provide written notifications to applicants when they reach certain decisions about their case, and the reasons behind any decisions that are against the applicant's interests. Applicants can ask the housing authority to review most aspects of their decisions, and, if still dissatisfied, can appeal to the county court on a point of law.

30 Housing authorities have the power to accommodate applicants pending a review or appeal to the county court. When an applicant who is being provided with interim

accommodation requests a review of the suitability of accommodation offered to end the relief duty, the authority has a duty to continue to accommodate them pending a review.

Chapter 1: Introduction

Purpose of the code

1.1 The Ministry of Housing Communities and Local Government is issuing this code of guidance to local housing authorities (referred to as housing authorities) in England under section 182 of the Housing Act 1996 ('the 1996 Act'). In accordance with section 182(1) of the 1996 Act, housing authorities are required to have regard to this statutory guidance in exercising their functions relating to homelessness and prevention of homelessness, including their functions under Part 7 of the 1996 Act (as amended) and under the Homelessness Act 2002 ('the 2002 Act'). This code replaces and consolidates the previous version published in 2006 and the supplementary guidance issued in August 2009, November 2012 and November 2014.

1.2 Under section 182(1), social services authorities in England are also required to have regard to guidance given by the Secretary of State (such as this code) when exercising their functions relating to homelessness and the prevention of homelessness. Further guidance applicable to social services authorities is also issued jointly with the Secretary of State for Health and Social Care and the Secretary of State for Education.

1.3 The code provides guidance on how housing authorities should exercise their functions relating to homelessness and threatened homelessness and apply the statutory duties in practice. This is not a substitute for legislation and therefore any policy context on the law documented in the code should be considered only as the Department's understanding at the time of issue. While it is intended that the code will be updated periodically, housing authorities are expected to keep up to date with developments in legislation and case law.

1.4 The Secretary of State has the power to issue statutory codes of practice, providing further guidance on how housing authorities should deliver and monitor their homelessness and homelessness prevention functions. Any codes of practice will focus on specific functions of housing authorities in order to drive up standards.

Who is the code for?

1.5 The code is issued specifically for local authority members and staff. It is also of direct relevance to private registered providers of social housing. Private registered providers have a duty under the 1996 Act to co-operate with housing

authorities in exercising their homelessness functions. Private registered providers are subject to the Regulator of Social Housing's[1] Regulatory

Standards, in particular the expectation that they will co-operate with local authority strategic housing functions, as set out in the Tenancy and Home and Community Standards.

1.6 Many of the activities discussed in the code require joint planning and operational co-operation between housing authorities and social services authorities, health authorities, criminal justice agencies, voluntary sector organisations and the diverse range of bodies working in the private rented sectors – so the code is also relevant to these agencies.

Homelessness legislation

1.7 Part 7 of the 1996 Act sets out the powers and duties of housing authorities where people apply to them for accommodation or assistance in obtaining accommodation in cases of homelessness or threatened homelessness.

1.8 The Homelessness Act 2002 ('the 2002 Act') places a requirement on housing authorities in England to formulate and publish a homelessness strategy based on the results of a review of homelessness in their district. The 2002 Act also amended a number of provisions in Part 7 of the 1996 Act to strengthen the safety net for vulnerable people.

1.9 The Homelessness Reduction Act 2017 ('the 2017 Act') places a set of duties on housing authorities to intervene at earlier stages to prevent homelessness in their areas and to take reasonable steps to prevent and relieve homelessness for all eligible applicants, not just those that have priority need under the Act.

Equality

1.10 Housing authorities need to ensure that policies and decisions relating to homelessness and threatened homelessness do not amount to unlawful conduct under the Equality Act 2010 and also comply with the public sector equality duty.

1.11 The Equality Act 2010 provides protection from unlawful discrimination in the provision of goods, services and public functions, housing, transport and

[1] The regulation of social housing is the responsibility of the Regulation Committee, a statutory committee of the Homes and Communities Agency (HCA). The organisation refers to itself as the Regulator of Social Housing when undertaking the functions of the Regulation Committee. References in any enactment or instrument to the Regulator of Social Housing are references to the HCA acting through the Regulation Committee. Homes England is the trading name of the HCA's non-regulation functions.

education in relation to the protected characteristics set out in the legislation, which are:

a. age;

b. disability;

c. gender reassignment;

d. pregnancy and maternity (which includes breastfeeding);

e. marriage and civil partnership;

f. race;

g. religion or belief;

h. sex; and,

i. sexual orientation.

1.12 The public sector equality duty in section 149(1) of the Equality Act 2010 requires public authorities, including housing authorities, to integrate equality considerations into the decision-making process from the outset, including in the development, implementation and review of their policies and services. This includes policies and services relating to homelessness and threatened homelessness. Other agencies and bodies who carry out public functions on behalf of local authorities also have a duty to comply with the public sector equality duty in the delivery of those public functions.

1.13 Specifically, under section 149(1) Equality Act 2010, public authorities in exercising their functions (or a person exercising public functions that is not a public authority (section 149(2)) must have due regard to the need to:

a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;

b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and,

c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

1.14 The three limbs of the duty, listed above, apply to all protected characteristics apart from marriage and civil partnership, which is only relevant to the first limb (eliminating discrimination and so on).

1.15 In order to comply with the public sector equality duty housing authorities need to do the following:

a. plan how to factor in equality considerations;

b. collect sufficient information to develop a reasonable understanding of what the equality impacts might be;

c. identify any equality impact the policy or service might have;

d. justify any decision that it takes;

e. re-evaluation to consider whether any alternative approaches might be possible;

f. record how many equality impacts are taken;

g. inform decision-makers; and,

h. continue to review equality impacts as the policy or service is implemented or developed.

1.16 The duty to have due regard to these equality issues will also apply when decisions are taken in respect of individual applications for homelessness assistance. Applicants should receive fully considered decisions which, in accordance with the public sector equality duty, show due regard to any equality impacts of the decision.

1.17 Housing authorities are also subject to *The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017* (SI 2017/353) if they are covered under Schedule 2 to those regulations, which would include most housing authorities. These regulations require public authorities to publish information to demonstrate their compliance with the public sector equality duty and set and publish equality objectives.

1.18 Further information about the Equality Act 2010 and the public sector equality duty is available from the Equality and Human Rights Commission website and the Government Equalities Office on gov.uk.

Human Rights Act 1998

1.19 In addition, when someone is receiving services from (or is on the receiving end of public functions carried out by) a public sector organisation or others who deliver services or carry out public functions on their behalf, they will also have rights under the Human Rights Act 1998.

1.20 Section 3 of the Human Rights Act 1998 specifies that when interpreting the law, so far as it is possible to do so, primary and secondary legislation must be read and given effect in a way which is compatible with the European Convention on

Human Rights ('the Convention'). Section 6 of the Human Rights Act 1998 provides that it is unlawful for a public authority to act in a way which is incompatible with a Convention right. Therefore, housing authorities and other agencies that carry out public functions on behalf of housing authorities must do so in a way that is compatible with Convention rights.

1.21 Housing authorities should pay particular attention to the promotion and protection of rights of vulnerable and disadvantaged groups such as people with disabilities, ethnic minorities, victims of sexual discrimination, children and elderly people.

1.22 Schedule 1 to the Human Rights Act 1998 gives further effect to a number of Convention rights and freedoms in domestic UK law. There are three Articles which are particularly important for the purposes of this code, as follows:

a. Article 3 - is the prohibition of torture whereby every person has the absolute right not to be tortured or subjected to treatment or punishment that is inhuman or degrading;

b. Article 4 - is the prohibition of slavery and forced labour whereby every person has the right not to be held in slavery or required to perform forced labour; and,

c. Article 8 - is the right to respect for private and family life whereby every person has the right to respect for their private and family life, their home and their correspondence. This right can be interfered with only in specified circumstances: where it is necessary in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

1.23 Under Article 3, housing authorities have an obligation to prevent a person being subjected to treatment or punishment that is inhuman or degrading, to investigate any allegations of such treatment, and to protect vulnerable individuals who they know or should know are at risk of such treatment.

1.24 Under Article 4, housing authorities should try to ensure that their policies or decisions take measures to protect victims of modern slavery or trafficking and to protect individuals who they are aware are at risk of such treatment.

1.25 Under Article 8, housing authorities should try to ensure that their policies or decisions do not interfere with a person's right to respect for private and family life, their home and their correspondence.

1.26 If a housing authority does decide that it will be difficult to avoid interfering with someone's Article 8 rights, it will need to make sure that the policy or action is necessary, pursues one of the recognised legitimate aims and is proportionate to that aim. A housing authority may be asked to produce reasons for its decisions.

1.27 Housing authorities may also need to consider whether there are situations putting them under obligation to take active steps to promote and protect

individuals' Article 8 rights from systematic interference by third parties, for example, private businesses.

1.28 Housing authorities are expected to consider the human rights implications of their actions in the exercise of their powers, or risk having their decisions overturned as a result and the planning and delivery of their services affected.

1.29 Further information about the Human Rights Act 1998 is available from the Equality and Human Rights Commission.

Safeguarding

1.30 Housing authorities have a duty to safeguard and promote the welfare of children and to co-operate to promote the well-being of all children, including 16-17 year olds, in the area as set out in the Children Act 2004.

1.31 Housing authorities also have a duty to co-operate with children's services in relation to children in need when requested to do so, as long as this is compatible with their own statutory or other duties and obligations and does not unduly prejudice the discharge of any of their functions.

1.32 Children's needs are paramount, and the welfare, needs and wishes of each child should be put first, so that every child receives the support they need.

1.33 All professionals who come into contact with children and their families must be alert to their needs and any risks of harm that individual abusers or potential abusers may pose, and respond proactively to them when dealing with their housing situation.

1.34 All professionals must share appropriate information in a timely way and can discuss any concerns about an individual child with colleagues, and with children's services. This will include identifying where current or changing housing arrangements might affect risk to children.

1.35 All professionals contribute to whatever actions are needed to safeguard and promote a child's welfare and take part in regularly reviewing the outcomes for the child against specific plans and outcomes.

1.36 The duties placed on housing authorities are set out in the Government's interagency statutory guidance: 'Working together to safeguard children: A guide to inter-agency working to safeguard and promote the welfare of children.' The specific duties towards 16 and 17 year olds who are at risk of homelessness or who are homeless, and the legal duties children's services authorities and housing authorities have towards them are set out in the Government's statutory guidance: 'Provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation.'

Chapter 2: Homelessness strategies and reviews

2.1 This chapter provides guidance on housing authorities' duties to carry out a homelessness review and to formulate and publish a strategy based on the results of that review.

Duty to formulate a homelessness strategy

2.2 Section 1(1) of the 2002 Act gives housing authorities the power to carry out a homelessness review for their district and formulate and publish a homelessness strategy based on the results of the review. Section 1(4) requires housing authorities to publish a new homelessness strategy, based on the results of a further homelessness review, within the period of five years beginning with the day on which their last homelessness strategy was published. However, housing authorities can conduct homelessness reviews and publish homelessness strategies more frequently if circumstances in the district change.

2.3 There was an exemption from this requirement for 'excellent authorities' as classified by the Secretary of State by virtue of the Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005. This regulation was revoked by the Local Audit and Accountability Act 2014 and all housing authorities are required to publish homelessness strategies as of 01 April 2017.

2.4 In conducting a review of homelessness and to formulate a new strategy, housing authorities will need to take into account the additional duties introduced through the 2017 Act. Authorities are encouraged to take the opportunity to involve all relevant partners in developing a strategy that involves them in earlier identification and intervention to prevent homelessness.

2.5 For a homelessness strategy to be effective, housing authorities should ensure that it is consistent with other local plans and is developed with, and has the support of, all relevant local authority departments and partners. Corporate and partnership involvement in identifying strategic objectives will help to ensure all relevant departments and agencies are committed to supporting their delivery.

2.6 The homelessness strategy should link with other strategies and programmes that aim to address the wide range of factors that could contribute to homelessness in the local area. It will be important to consider how these strategies and programmes, which could encompass aspects of local health, justice or economic policy for example, can help achieve the objectives of the homelessness strategy and vice-versa.

2.7 Housing authorities should consider the benefits of cross-boundary co-operation. A county-wide approach will be particularly important in non-unitary authorities, where housing and homelessness services are provided by the district authority whilst other key services, such as social services, are delivered at the county

level. Housing authorities should ensure that the homelessness strategy for their district forms part of a coherent approach to tackling homelessness with neighbouring authorities. Housing authorities may wish to collaborate to produce a joint homelessness strategy covering a sub-regional area. London boroughs should have regard to the London Housing Strategy when formulating their homelessness strategies.

2.8 Each local authority has a legal duty under the Health & Social Care Act 2012 to take such steps as it considers appropriate for improving the health of the people in its area. This includes people experiencing homelessness or at risk of homelessness. Housing authorities should ensure that their homelessness strategy is co-ordinated with the Health and Wellbeing Strategy, and that their review of homelessness informs and is informed by the Joint Strategic Needs Assessment.

2.9 To be effective the homelessness strategy will need to be based on realistic assumptions and be developed and owned jointly with partners who will be responsible for its delivery. Sections 1(5) and (6) of the 2002 Act require housing and social services authorities to take the homelessness strategy into account when exercising their functions. Authorities can combine housing and homelessness strategies in a single document where it is coherent to do so.

2.10 Housing authorities must consult public or local authorities, voluntary organisations or other persons as they consider appropriate before adopting or modifying a homelessness strategy. Housing authorities will also wish to consult with service users and specialist agencies that provide support to homeless people in the district. Section 3(4) provides that a housing authority cannot include in a homelessness strategy any specific action expected to be taken by another body or organisation without their approval.

2.11 As part of the homelessness strategy housing authorities should develop effective action plans, to help ensure that the objectives set out in the homelessness strategy are achieved. Action plans could include, for example, targets, milestones and arrangements for monitoring and evaluation.

2.12 Housing authorities must make copies of their homelessness review and the homelessness strategy available for inspection at their principal office at all reasonable hours and without charge, and the strategy must be available to any member of the public, on request (for which a reasonable charge can be made). Housing authorities are advised to publish the strategy and review documents on their website.

2.13 Housing authorities must keep their homelessness strategy under review and may modify it accordingly. Before modifying the strategy, they must consult on the same basis as required before adopting a strategy. Circumstances that might prompt modification of a homelessness strategy include but not be limited to: anything that may affect the composition of homelessness and/or the risk of homelessness in the district; anything that may change the delivery of the strategy; changes to the

relationships between the partners involved in the strategy; or changes to the organisational structure of the housing authority.

Reviewing homelessness and formulating a strategy

2.14 Under section 2(1) of the 2002 Act, a homelessness review means a review by a housing authority of:

a. the levels, and likely future levels, of homelessness in their district;

b. the activities which are carried out for any the following purposes (or which contribute to achieving any of them):

i. preventing homelessness in the housing authority's district; ii. securing that accommodation is or will be available for people in the district who are or may become homeless; and
iii. providing support for people in the district who are homeless or who may become at risk of homelessness; or who have been homeless and need support to prevent them becoming homeless again; and,

c. the resources available to the housing authority, the social services authority for the district, other public authorities, voluntary organisations and other persons for the activities outlined in (b) above.

2.15 The purpose of the review is to determine the extent to which the population in the district is homeless or at risk of becoming homeless, assess the likely extent in the future, identify what is currently being done and by whom, and identify what resources are available, to prevent and tackle homelessness.

2.16 Housing authorities are reminded that when drawing up their homelessness strategies for preventing and reducing homelessness, they must consider the needs of all groups of people in their district who are homeless or likely to become homeless, including Gypsies and Travellers. The periodical review of housing needs under section 8 of the Housing Act 1985 is a statutory requirement on housing authorities. This requires housing authorities to assess and understand the accommodation needs of people residing or resorting to their district. Under section 124 of the Housing and Planning Act 2016, which amends section 8 of the Housing Act 1985, housing authorities have a statutory duty to consider the needs of people residing in or resorting to their district with respect to sites for caravans and the mooring of houseboats.

Identifying current and future levels of homelessness

2.17 Homelessness is defined by sections 175 to 178 of the 1996 Act. For further guidance on homelessness and threatened with homelessness see Chapter 6. The review must take account of all forms of homelessness within the meaning of the 1996 Act and should therefore consider a wide population of households who are homeless or at risk of becoming homeless. This will include people sleeping rough,

and those whose accommodation and circumstances make them more likely than others to become homeless including sleeping rough.

2.18 When carrying out the review housing authorities should consider including the following as a basis for assessing current and future levels of homelessness in their district:

a. homelessness casework records and other local sources of data;

b. trends in homelessness approaches and in underlying causes;

c. which cohorts may be more likely to become homeless or be threatened with homelessness;

d. the profile of households who have experienced homelessness in their district;

e. equality monitoring data, including that relating to homelessness applications and outcomes;

f. the range of factors that may affect future levels of homelessness;

g. the personal and structural factors that may contribute to people becoming homeless; and,

h. any planned legislation or local policy changes that are likely to impact on levels of homelessness for particular groups in the district.

Reviewing activities carried out and resources required

2.19 The public, private and voluntary sectors can all contribute, directly or indirectly, to the prevention of homelessness and the provision of accommodation and support for homeless people. The housing authority should therefore consider the activities of all relevant agencies and organisations, as well as the resources available to them, which may contribute to the delivery of services.

2.20 Having mapped all the current activities, the housing authority should consider whether these are appropriate and adequate to meet the aims of the strategy, and whether any realignment of resources or additional provision is needed.

Assistance from social services

2.21 In non-unitary districts, where the social services authority and the housing authority are different authorities, section 1(2) of the 2002 Act requires the social services authority to give the housing authority such assistance as may be reasonably required in carrying out a homelessness review and formulating and publishing a homelessness strategy. **Since a large proportion of people who are homeless or at risk of homelessness will be vulnerable adults or have children in their care, it will always be necessary to seek assistance from the**

social services authority to formulate an effective homelessness strategy. In unitary authorities, the authority must ensure that the social services department assists the housing department in carrying out a homelessness review and formulating and publishing a homelessness strategy.

2.22 The social services authority must comply with all reasonable requests for assistance from housing authorities within their district. For the purposes of formulating a strategy, this might include providing information about the current and projected numbers of vulnerable adults within the district that might be at higher risk of homelessness, and the care, support and accommodation available to them. Children's social care services could provide, for example, future projections of young people leaving care who are likely to require accommodation and support, families provided with accommodation who are ineligible for assistance (some of which might become eligible), and the numbers of safeguarding alerts involving domestic abuse, poor housing conditions or other factors that might indicate a need for homelessness assistance.

Formulating the strategy

2.23 Having carried out a homelessness review the housing authority will be in a position to formulate its homelessness strategy based on the results of that review as required by section 1(1)(b) of the 2002 Act. In formulating its strategy, a housing authority will need to consider the necessary levels of activity required to achieve the aims set out in the paragraph below and the sufficiency of the resources available to them as revealed by the review.

2.24 Under section 3(1) of the 2002 Act a homelessness strategy means a strategy for:

a. preventing homelessness in the district (see paragraphs 2.25-2.29 below);

b. securing that sufficient accommodation is and will be available for people in the district who are or may become homeless (see paragraphs 2.30-2.56 below); and,

c. securing the satisfactory provision of support for people in the district who are or may become homeless or who have been homeless and need support to prevent them becoming homeless again (see paragraphs 2.57-2.75 below).

Preventing homelessness

2.25 Under section 3(1)(a) of the 2002 Act, a homelessness strategy must include a strategy for **preventing** homelessness in the district. Furthermore, the 2017 Act strengthens statutory duties to prevent homelessness for all eligible applicants, including those who do not have priority need or may be considered intentionally homelessness and regardless of local connection. The 2017 Act also creates a new duty on certain public authorities to refer users of their services who are threatened with homelessness to a housing authority of their choice, which enables earlier identification of people at risk of becoming homeless through their interactions with other services.

2.26 When developing their homelessness strategy, local authorities will wish to look beyond the statutory requirements to consider the economic and social reasons for investing in activities that prevent homelessness, and may wish to learn from other local authorities and service providers who have adopted a more preventative approach.

Reviewing homelessness prevention activities and resources

2.27 Housing authorities will need to gain a good understanding of the causes of homelessness in their district, both to inform the development of successful interventions, and to assist in securing the commitment of stakeholders who can contribute toward preventing homelessness.

2.28 Housing authorities should establish good links with service providers who have early contact with people who are at risk of becoming homeless, review and learn from their activities and consider how they might be improved. Housing authorities should also consider how they might identify and interact with those households that are not receiving services, in order to prevent homelessness.

2.29 As part of their homelessness review, housing authorities should identify resources that are allocated to activities that prevent homelessness as well as those that respond to households becoming homeless, and consider how these might be realigned. This will be particularly important for delivering the duties contained in the 2017 Act. Upstream prevention activities are likely to produce direct savings in temporary accommodation and other costs for the authority, and will also help to reduce pressures on wider services, such as health, housing and employment, in the longer term.

Formulating a strategy to prevent homelessness

2.30 Elements of a prevention strategy should include:

a. **advice and information:** available to residents in the district, or who may return to the district, which assists them in having appropriate information or access to services that will help to prevent them becoming homeless. Maintaining a high level of awareness about housing options and homelessness amongst partner agencies will also contribute to preventing homelessness. For further guidance on advice and information on homelessness and threatened with homelessness see Chapter 3;

b. **early identification:** authorities should consider how they might identify people at risk of homelessness at an earlier stage, and the interventions that could be put in place to prevent them from being threatened with or becoming homeless. The 'duty to refer' (section 213B of the 1996 Act) should engage public bodies to assist with earlier identification, and housing authorities should develop local protocols or referral arrangements with appropriate agencies, whether or not they are included within that duty. For further advice on duty to refer see Chapter 4;

c. **pre-crisis intervention:** authorities should consider whether sufficient activity is in place to intervene proactively where a household may be at risk of homelessness in the future. This might include, for example, having joint working arrangements with environmental health services to ensure tenants are not displaced through enforcement action other than in a planned way, involving children's early help services to support families at risk of losing their social housing tenancy, or funding a court duty advice service that identifies households at risk of mortgage repossession or loss of private rented accommodation;

d. **preventing recurring homelessness:** an analysis of local data should identify applicants most at risk of repeat homelessness which will inform decisions about allocation of resources, particularly for housing related support to help sustain settled accommodation; and,

e. **partnership arrangements:** the homelessness strategy should set out how partners will be involved in all of the above activities, and what practical arrangements are needed (for example, joint protocols and procedures) to ensure the continued commitment to joint working to prevent homelessness and improve outcomes.

Ensuring a sufficient supply of accommodation

2.31 Section 3(1)(b) of the 2002 Act provides that one of the purposes of the homelessness strategy is to secure that sufficient accommodation is and will be available for people who are or may become homeless.

2.32 A shortage of affordable housing can lead to increasing numbers of people being accommodated in temporary accommodation whilst waiting for settled housing to bring the main homelessness duty to an end. 'Settled housing' in this context will primarily be social housing and good quality private sector accommodation. For further guidance on securing accommodation see Chapter 16.

2.33 Through the homelessness review, housing authorities should estimate the likely demand for assistance to prevent or relieve homelessness, and to meet the needs of those who are owed the main housing duty. They should include within the strategy what actions are required to ensure sufficient supply of accommodation to meet the estimated need.

Reviewing accommodation needs and resources

2.34 Housing authorities need to consider the range of accommodation that is available and is likely to be required for people who are, or may become, homeless. Landlords, accommodation providers and housing developers across all sectors may contribute to the review, and to the development of a strategy for provision of accommodation in the district.

2.35 Housing authorities should review the existing supply of accommodation available to people who are homeless or at risk of homelessness and identify where there are gaps, or where existing resources do not match the most pressing needs.

2.36 This might include reviewing supply and demand for:

a. social and affordable housing held by the housing authority and private registered providers;

b. temporary accommodation provided on an interim basis, or under the section 193(2) main housing duty;

c. private rented accommodation, including shared housing options for young single people;

d. supported accommodation available for particular cohorts of people in need of accommodation with support; and,

e. low cost home ownership schemes.

Increasing the supply of new housing

2.37 National guidance on planning and affordable housing is contained in the National Planning Policy Framework and supporting planning guidance. The Framework acts as guidance for local planning authorities both in drawing up Local Plans and making decisions about planning applications.

2.38 The Framework sets out that local planning authorities should have a clear understanding of housing needs in their area. They should prepare a Strategic Housing Market Assessment to assess their full housing needs, working with neighbouring authorities where housing market areas cross administrative boundaries.

2.39 The Framework asks local authorities to use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework.

2.40 To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, the Framework asks local planning authorities to:

a. plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, young single people, older people, people with disabilities, service families and people wishing to build their own homes);

b. identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand;

c. where they have identified that affordable housing is needed, set policies that meet this need within development sites, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.

2.41 Local planning authorities are expected to review their Plans regularly and ensure that they are kept up-to-date.

2.42 Another important means of providing affordable housing is through planning obligations, which might be sought in the context of granting planning permission for new housing development. Section 106 of the Town and Country Planning Act 1990 enables a local planning authority to seek agreement from developers to enter into planning obligations to mitigate the impact of otherwise unacceptable development. More detailed guidance on the use of planning obligations is contained within Planning Practice Guidance.

Accessing the private rented sector

2.43 Housing authorities are encouraged to work in close partnership with local landlords and to develop opportunities to expand the provision of private rented accommodation that is available to people threatened with or actually homeless. Housing authorities should engage private landlords in developing the homelessness strategy, and in identifying how they might support its delivery. There may be opportunities to provide grant funding to landlords to improve poor quality accommodation or to bring empty properties back in to use for homeless households. Housing authorities should also review their private rented access schemes to ensure they meet a broad range of needs, including for single people at risk of homelessness.

Access to social housing

2.44 In developing their homelessness strategy, housing authorities should review how allocation arrangements for their own stock, and nominations, to private registered providers contribute to preventing or relieving homelessness.

2.45 Allocations schemes will be designed to reflect local priorities and needs, but must also provide reasonable preference to people who are homeless or are owed specific homelessness duties as set out in section 166A(3) of the 1996 Act. This will include providing reasonable preference to people who are owed the prevention (section 195(2)) or relief (section 189B) duty. Housing authorities may need to review their allocations schemes in response to the 2017 Act, to ensure that they deliver the requirements of the legislation and are sufficiently geared towards preventing homelessness.

2.46 Housing authorities are encouraged to develop an annual lettings plan to match anticipated supply against applicant demand, taking into account the need to prevent homelessness and to provide settled accommodation to people owed the

main housing duty. As well as considering the proportion of lettings that should be made available to applicants who are owed the main housing duty (section 193(2)), housing authorities will want to consider whether the lettings plan facilitates or reduces access to housing for groups they know to be at risk of becoming homeless in their area. Housing authorities may also wish to review what part social housing allocations should play in facilitating move-on from any supported accommodation that forms part of the authority's wider homelessness response.

2.47 The Localism Act 2011 amended Part 6 of the 1996 Act to enable housing authorities to set their own qualification criteria for applicants wishing to join their housing register, to address local priorities and needs. Authorities can also provide reduced preference to applicants because of their previous conduct, which might include anti-social behaviour or rent arrears. However, housing authorities should not apply qualification criteria which would exclude from their allocation schemes homeless households who would be entitled to reasonable preference in the allocation of housing.

2.48 Housing authorities are encouraged to keep under review the impact of their allocations policies upon people at risk of homelessness, including single people who may be less able to establish their residency or may have a history of offending or other behaviour that impacts on their ability to access social housing. It is for the authority to decide its allocation scheme based on local priorities, but in doing so it should be aware of and take into consideration the impact of policies and procedures (which may be unintentional and/or indirect) on applicants who may be at risk of homelessness in the district.

2.49 It is important that housing authorities work effectively with private registered providers to help them prevent and tackle homelessness in the district. Private registered providers have a key role to play in sustaining tenancies, reducing evictions and abandonment, and preventing homelessness through their housing management functions. All parties will wish to ensure that there are effective procedures to identify early those tenants at risk of becoming homeless and that referral processes are in place.

2.50 The Secretary of State considers that, where local authority or private registered providers stock is provided as temporary accommodation (under section 193(2)); the housing authority should give consideration to the scope for allocating the accommodation as a secure or assured tenancy, as appropriate. This is especially the case where a household has been living in a particular property for anything other than a short-term emergency stay.

Temporary accommodation

2.51 Housing authorities should review their need for and use of temporary accommodation and, where necessary, identify what improvements will be made to procurement plans within their homelessness strategy. The aim will be to maximise the supply of good quality accommodation to meet the needs of homeless households, and reduce the financial burden of temporary accommodation on the applicant, authority and public purse. Housing authorities

who use bed and breakfast to accommodate families in emergencies should consider including a plan to reduce or eliminate its use. For further guidance on securing accommodation see Chapter 16.

Supported housing and refuges

2.52 Housing authorities will need to work with partners to assess the need, and plan strategically, for supported housing provision to help prevent and resolve homelessness for people with support needs, and to consider whether existing local needs are met or to commission provision (either new units or additional support) to address these needs. Supported housing should be of good quality and suitable for the needs of the client group it is intended for. For example, supported accommodation with shared facilities will not normally be suitable for longer-term placements for families with pregnant women and/or children.

2.53 Refuge provision is very important for victims of domestic abuse at risk who need to flee from highly dangerous perpetrators, and victims will very often need to be placed in a refuge in another area in order to be safe from the perpetrator. Housing authorities will need to work together and with specialist domestic abuse services to assess and meet the need for refuge provision across local authority boundaries, for example, across a region or sub-region, to help ensure provision for people fleeing both from and to individual housing authority areas.

Empty homes

2.54 Local authorities are encouraged to make use of their powers and the incentives available to tackle empty homes. Through the new homes bonus, local authorities can earn the same financial reward for bringing an empty home back into use as building a new one. They can also charge up to 150% council tax for a home left empty for over two years. Housing authorities may wish to consider introducing local schemes that incentivise landlords to bring empty properties back into use, for example by providing grant funding subject to the refurbished accommodation being made available for homeless households.

Disabled facilities grant

2.55 Uptake of the disabled facilities grant – a mandatory entitlement administered by housing authorities for eligible disabled people in all housing tenures – can enable homeowners to remain living an independent life at home. Authorities are required to give a decision within six months of receiving an application. The grant is subject to a maximum limit and is means tested to ensure that funding goes to those most in need.

2.56 For guidance on securing accommodation for homeless applicants see Chapter 16.

Securing the provision of support

2.57 Section 3(1)(c) of the 2002 Act provides that the homelessness strategy should secure the satisfactory provision of support for people in the district who are or may be homeless, or who have been homeless and need support to prevent them becoming homeless again.

Reviewing resources and activities to provide support

2.58 Housing authorities should consider all the current activities which contribute to the provision of support for people who are, or may be at risk of becoming, homeless and those who have been homeless and need support to prevent them becoming homeless again. The range of providers whose activities will be making a contribution to this area are likely to embrace the public, private, voluntary and charitable sectors.

2.59 The 2017 Act introduced duties for housing authorities to assess the support needs of all applicants who are homeless or threatened with homelessness, and agree a personalised housing plan which should include reasonable steps required to meet any support needs identified. This more systematic assessment arrangement for all applicants will enable the generation of much improved data on the support needs of homeless people, which can be used as part of the homelessness review and to inform the homelessness strategy as well as commissioning plans. For further guidance on assessments and personalised housing plans see Chapter 11.

2.60 Housing authorities should consider mapping support services and activities in the district to assist in developing the homelessness strategy and to identify areas, both geographic and thematic, in which services are duplicated and/or where gaps in service provision can be identified.

2.61 Housing authorities should explore how budgets and resources from a wide range of sources can be used to provide support for people in their district. Due to the cross-cutting nature of homelessness there will be opportunities, for example, for the housing authority to work with organisations specialising in primary care, substance dependency, mental health or employment and training.

2.62 In two-tier authority areas it will be necessary to engage the upper tier authority, which holds responsibility for commissioning housing related support, in identifying resources available to meet support needs across all cohorts that are at high risk of homelessness.

Formulating a strategy to provide support

2.63 In formulating their homelessness strategies, housing authorities need to recognise that for some households homelessness cannot be tackled, or prevented, solely through the provision of accommodation. Some households will require a range of support services, which may include housing related support to help them sustain their accommodation, as well as personal support relating to

factors such as relationship breakdown, domestic abuse, mental health problems, drug and alcohol addiction, poverty, debt and unemployment.

2.64 Housing-related support services have a key role in preventing homelessness occurring or recurring. The types of housing-related support that households who have experienced homelessness may need include:

a. support in establishing a suitable home – help, advice and support in finding and maintaining suitable accommodation for independent living in the community;
b. support with daily living skills – help, advice and training in the day-to-day skills needed for living independently, such as budgeting and cooking;

c. support in accessing benefits, health and community care services – information, advice and help in claiming benefits or accessing community care or health services;

d. help in establishing and maintaining social support – help in rebuilding or establishing social networks that can help counter isolation and help support independent living.

Support for single people

2.65 Housing authorities will be aware that some individuals may be at particular risk of homelessness, for example young people leaving care, ex-offenders, veterans, people with mental health problems or individuals leaving hospital, and may require a broader package of resettlement support. When developing their homelessness strategies, housing authorities should consider carefully how to work effectively to prevent homelessness amongst these groups and ensure that appropriate support is available.

2.66 Housing authorities should work with key partners to assess and meet the support needs of people at risk of homelessness. Where appropriate, accommodation and support services might be jointly commissioned, with children's social care, health, criminal justice agencies and other partners, in order to share and maximise resources and ensure a more holistic service response.

2.67 Many young people who have experienced homelessness will be in particular need of support to develop skills to manage their affairs and prepare to take on and sustain a tenancy and operate a household budget. Those estranged from their family, particularly care leavers, may lack the advice and support normally available to young people.

Support for rough sleepers

2.68 In districts where there is evidence that people are sleeping rough, the homelessness strategy should include objectives to work toward eliminating rough sleeping. This would include reviewing existing support arrangements, identifying which do or do not work, and where appropriate looking for alternative ways to

provide accommodation and support that might improve outcomes for people who have slept rough. Accommodation and support solutions will vary according to the profile and particular needs of rough sleepers in the district, but authorities will wish to consider whether existing arrangements are working, or whether 'Housing First' or other service models might be more effective.

2.69 Housing authorities should consider what actions will assist in preventing rough sleeping, particularly for those groups that are over represented amongst those identified as sleeping rough, which includes people who have been in care or in prison, people who have mental health problems and those with a history of drug or alcohol misuse. Housing authorities cannot tackle rough sleeping alone and should involve partners in health, social care and criminal justice, as well as third sector and charitable service providers to develop and deliver the strategy.

2.70 Housing authorities should also consider joint working with agencies to tackle issues such as street drinking, begging, drug misuse and anti-social behaviour. Such collaborative working can help reduce the numbers of people sleeping rough and provide effective services targeted at those who are homeless or at risk of becoming homeless.

Support for families

2.71 Housing authorities should consider what support is available, or could be made available to support families who are at risk of homelessness, including preventing them from becoming homeless. Early Help services commissioned or delivered by children's social care authorities can contribute to the identification of families that are struggling to maintain accommodation, and require help and support before problems escalate and they are placed at imminent risk of homelessness. Involving providers of services to children and families in developing the strategy will contribute to improving early intervention, as well as drawing in resources available to support families who become homeless or require support to access and sustain settled accommodation.

2.72 Housing authorities will also wish to involve teams responsible for delivering the 'troubled families' programme in developing and delivering a strategy that helps to prevent the most vulnerable families from becoming homeless.

Support for victims of domestic abuse

2.73 In formulating their homelessness strategies, housing authorities should consider the particular needs that victims of domestic abuse have for safe accommodation, which will include having accommodation placements available outside the district. Housing authorities should also work cooperatively with other local authorities and commissioners to provide services to tackle domestic abuse; and should involve any local Violence Against Women and Girls Forum and service provider(s) in developing the homelessness strategy.

2.74 Housing authorities should also work closely with local refuge providers to develop fair and efficient move on arrangements, and should be mindful that policies and

practices do not disadvantage people who have lost settled accommodation because of domestic abuse.

Households in temporary accommodation

2.75 The provision of support to households placed in temporary accommodation is essential to ensure that they are able to continue to enjoy a reasonable quality of life and access the range of services they need. In formulating their homelessness strategies, housing authorities should consider what arrangements need to be in place to ensure that households placed in temporary accommodation, within their district or outside, are able to access relevant support services. In particular households will need to be able to access:

a. primary care services such as health visitors and GPs;

b. appropriate education services;

c. relevant social services; and,

d. employment and training services.

Chapter 3: Advice and information about homelessness and the prevention of homelessness

3.1 Housing authorities have a duty to provide or secure the provision of advice and information about homelessness and the prevention of homelessness, free of charge. These services will form part of the offer to applicants who are also owed other duties under Part 7, for example the prevention and relief duties. **They must also be available to any other person in their district,** including people who are not eligible for further homelessness services as a result of their immigration status. The provision of up to date, comprehensive, tailored advice and information will play an important part in delivering the housing authority's strategy for preventing homelessness.

3.2 Housing authorities may wish to consider providing information for those who are ineligible for further homelessness services on how to access any other assistance available in the area, for example through charitable or faith groups.

3.3 Under section 179(1) of the 1996 Act, authorities must provide information and advice on:

a. preventing homelessness;

b. securing accommodation when homeless;

c. the rights of people who are homeless or threatened with homelessness, and the duties of the authority;

d. any help that is available from the authority or anyone else for people in the authority's district who are homeless or may become homeless (whether or not they are threatened with homelessness); and,

e. how to access that help.

3.4 Early applications for homelessness assistance maximise the time and opportunities available to prevent homelessness. Information provided through authorities' websites and other channels should therefore:

a. help enable people to take action themselves where possible; and,

b. actively encourage them to seek assistance from the authority in good time if they need it.

3.5 Section 179(2) states that housing authorities must design advice and information services to meet the needs of people within their district including, in particular, the needs of the following groups:

a. people released from prison or youth detention accommodation;

b. care leavers;

c. former members of the regular armed forces;

d. victims of domestic abuse;

e. people leaving hospital;

f. people suffering from a mental illness or impairment; and,

g. any other group that the authority identify as being at particular risk of homelessness in their district.

3.6 Housing authorities will need to work with other relevant statutory and non-statutory service providers to identify groups who are at particular risk and to develop appropriate provision that is accessible to those who are likely to need it. In some circumstances tailored advice and information will be best delivered in a targeted and planned way when it is most likely to be needed – for example, in preparation for leaving care, being discharged from hospital or being released from custody, but it should also be widely accessible as a universal service. Appropriate provision will need to be made to ensure accessibility for people with particular needs, including those with mobility difficulties, sight or hearing loss and learning difficulties, as well as those for whom English is not their first language.

3.7 Many people concerned about a risk of homelessness will be seeking practical advice and assistance to help them remain in their accommodation or secure alternative accommodation. Advice on the following issues may help to prevent people from becoming threatened with homelessness:

a. tenants' rights and rights of occupation,

b. what to do about harassment and threats of illegal eviction;

c. rights to benefits including assistance with making claims as required;

d. how to protect and retrieve rent deposits;

e. how private tenants can challenge unreasonable rent increases;

f. rent and mortgage arrears;

g. how to manage debt;

h. help available to people at risk of violence and abuse;

i. grants available for housing repair and/or adaptation;

j. how to obtain accommodation in the private rented sector – e.g. details of landlords and letting agents within the district, any accreditation schemes, and information on rent guarantee and deposit schemes;

k. how to apply for social housing; and,

l. how to access shared-ownership or other low cost home ownership schemes.

3.8 The legislation does not specify how housing authorities should ensure that advice and information on homelessness and the prevention of homelessness are made available. They could do this in a number of ways, for example:

a. provide the service themselves;

b. ensure that it is provided by another organisation; or,

c. ensure that it is provided in partnership with another organisation.

For further guidance on contracting out homelessness functions see Chapter 5.

3.9 Under section 179(3), housing authorities may give grants or loans to other persons who are providing advice and information about homelessness and the prevention of homelessness on behalf of the housing authority. Under section 179(4), housing authorities may also assist such persons (e.g. voluntary organisations) by:

a. allowing them to use premises belonging to the housing authority;

b. making available furniture or other goods, by way of gift, loan or some other arrangement; and,

c. making available the services of staff employed by the housing authority.

3.10 Housing authorities should monitor the provision of advisory services to ensure they continue to meet the needs of all sections of the community and help deliver the aims of their homelessness strategy.

Chapter 4: The duty to refer cases in England to housing authorities

4.1 Under section 213B the public authorities specified in regulations are required to notify a housing authority of service users they consider may be homeless or threatened with homelessness (i.e. it is likely they will become homeless within 56 days). Before making a referral a public authority must:

a. have consent to the referral from the individual;

b. allow the individual to identify the housing authority in England which they would like the notification to be made to; and,

c. have consent from the individual that their contact details can be supplied so the housing authority can contact them regarding the referral.

4.2 The duty to refer only applies to public authorities in England and individuals can only be referred to housing authorities in England.

4.3 The public authorities which are subject to the duty to refer are specified in *The Homelessness (Review Procedure etc.) Regulations 2018*. The public services included in the duty are as follows:

a. prisons;

b. youth offender institutions;

c. secure training centres;

d. secure colleges;

e. youth offending teams;

f. Probation Services;

g. Jobcentre Plus;

h. social service authorities;

i. emergency departments;

j. urgent treatment centres; and,

k. hospitals in their function of providing inpatient care.

The Secretary of State for Defence is also subject to the duty to refer in relation to members of the regular forces. The regular forces are the Royal Navy, the Royal Marines, the regular army and the Royal Air Force.

4.4 The most appropriate approach to discharging the duty will vary between public authorities and it is their responsibility to decide how to do so. The expected response following a disclosure from a service user that they are homeless or at risk of homelessness is for the public authority to refer the case (with consent) to a housing authority identified by the service user. Public authorities are not expected to conduct housing needs assessments as part of the section 213B duty to refer.

The procedure for referrals

4.5 The procedure for referrals should be decided by service partners in each local area. The housing authority should incorporate the duty to refer into their wider homelessness strategy and joint working arrangements and establish local arrangements with agencies in regard to referrals. These arrangements should focus on identifying people at risk of homelessness as early as possible to maximise the opportunities to prevent homelessness.

4.6 Housing authorities are responsible for setting up local procedures for managing referrals, and should ensure that all referral information is stored securely so that it can be linked to case files for use in data returns and be included in an applicant's assessment and/or personalised housing plan as appropriate.

4.7 It is recommended that housing authorities set up a single point of contact which public authorities can use for submitting referrals. This should be shared with all relevant local agencies and be clearly accessible on the housing authority website for referrals made by public authorities in different districts.

4.8 Local procedures should be tailored to each public authority. For example, arrangements with prisons should ensure that the referral is made well in advance of the release date and that, with the individual's consent, appropriate information is supplied with the referral. When designing procedures, it may be helpful to include consideration of information to be given to people being referred to help inform their decision on which housing authority they wish to be referred to. This might include information on how local connection arrangements might affect a person who is homeless and wishes to be referred to a district where they have no local connection.

4.9 Housing authorities should include information about how they will respond where the referral indicates that an individual is at risk of sleeping rough, or is already sleeping rough in their procedures for responding to referrals.

4.10 Some public authorities that are subject to the duty to refer will be required to provide accommodation for certain individuals as part of their own legal duties, for example as an element of care or supervision. Examples include social services authorities with a duty to accommodate a lone 16 or 17 year old under

the Children Act 1989 or a vulnerable adult under the Care Act 2014. Housing authorities will wish to agree arrangements with relevant authorities to ensure that when they receive referrals from these authorities appropriate alternative joint working approaches are in place and the primary responsibility to provide accommodation which would prevent or address homelessness lies with the other service.

4.11 Authorities are encouraged to establish arrangements with partners that go beyond referral procedures, aiming to maximize the impact of shared efforts on positive outcomes for service users who may have multiple needs. Such arrangements can advance the objectives of partner agencies and deliver efficiencies for the public purse.

4.12 Referring authorities should be mindful that for certain individuals, rather than making a referral, it may be more appropriate to assist them to approach a housing authority directly for assistance. This might apply, for example for clients with particular support needs.

What constitutes a referral

4.13 Under section 213B the referral to a housing authority must include the individual's name and contact details and the agreed reason for referral (e.g. that the individual is homeless or at risk of homelessness).

4.14 Housing authorities may want to develop standard referral mechanisms or forms. For example, it may be helpful for public authorities to expand on the minimum legal requirement in section 213B(3) for information to be captured in a referral (that is, of the public authority's opinion that the service user is or may be homeless or threatened with homelessness and their contact details), although housing authorities should be mindful of the service context of each referring agency when considering this.

4.15 Further referral information may include:

a. whether an individual is already homeless, and if not when they are likely to become homeless;

b. whether the individual is at risk of rough sleeping on the date the referral is made and if so whether this is imminent;

c. risk assessment information, considering risks to the individual and to others; and,

d. key medical information where relevant.

Consent

4.16 Housing authorities are advised to request that referring agencies confirm that the referee has given their consent to the referral as part of referral procedures.

Multiple / repeat referrals

4.17 When establishing local arrangements, housing authorities should consider the issues of multiple and repeat referrals and agree protocols with service partners to mitigate these.

4.18 There may be circumstances in which an individual's application has been closed by the housing authority and a new referral is received shortly after. The housing authority should respond to the referral and make contact with the individual to evaluate if there has been any change in relevant facts since the last application, which would warrant inquiries being made into any new application for assistance under Part 7.

Action upon the receipt of a referral

4.19 Housing authorities are encouraged to respond to the public authority who made the referral to acknowledge receipt of any referral.

4.20 A referral made by a public authority to the housing authority under section 213B will not in itself constitute an application for assistance under Part 7, but housing authorities should always respond to any referral received. The housing authority may wish to contact the individual via a phone-call, email or letter using the contact details provided in the referral. If a response is not received from the direct contact with the individual, the authority should provide information on accessing advice and assistance including the housing authority's website, opening hours, address and 24-hour contact details via a phone-call, email or letter.

4.21 If the housing authority's subsequent contact with the individual following receipt of the referral reveals details that provide the housing authority with reason to believe that they might be homeless or threatened with homelessness and the individual indicates they would like assistance it will trigger an application for assistance under Part 7.

Chapter 5: Contracting out homelessness functions

5.1 This chapter provides guidance on contracting out homelessness functions and housing authorities' statutory obligations with regard to the discharge of those functions.

5.2 The *Local Authorities (Contracting Out of Allocation of Housing and Homelessness Functions) Order 1996* (SI 1996 No. 3205) ('1996 Order') enables housing authorities to contract out certain functions under Parts 6 and 7 of the 1996 Act. The 1996 Order is made under section 70 of the Deregulation and Contracting Out Act 1994 ('1994 Act'). In essence, the 1996 Order allows the contracting out of executive functions while leaving the responsibility for making strategic decisions with the housing authority.

5.3 The 1996 Order provides that the majority of functions under Part 7 of the 1996 Act can be contracted out. These include:

a. making arrangements to secure that advice and information about homelessness, and the prevention of homelessness, is available free of charge within the housing authority's district;

b. making inquiries about and deciding a person's eligibility for assistance;

c. making inquiries about and deciding whether any duty and, if so, what duty is owed to a person under Part 7;

d. assessing eligible applicants' cases and agreeing a personalised housing plan;

e. undertaking prevention and relief duties owed to an applicant;

f. making referrals to another housing authority;

g. carrying out reviews of decisions; and,

h. securing and helping to secure accommodation to discharge homelessness duties.

5.4 Where decision-making in homelessness cases is contracted out, housing authorities may wish to consider retaining the review function under section 202 of the 1996 Act. This may provide an additional degree of independence between the initial decision and the decision on review.

5.5 The 1994 Act provides that a contract made:

a. may authorise a contractor to carry out only part of the function concerned;

b. may specify that the contractor is authorised to carry out functions only in certain cases or areas specified in the contract;

c. may include conditions relating to the carrying out of the functions, e.g. prescribing standards of performance;

d. shall be for a period not exceeding 10 years and may be revoked at any time by the Minister or the housing authority. Any subsisting contract is to be treated as having been repudiated in these circumstances; and,

e. shall not prevent the housing authority from exercising themselves the functions to which the contract relates.

5.6 Schedule 2 to the 1996 Order lists the homelessness functions in Part 7 of the 1996 Act that may not be contracted out, for example the provision of assistance by way of grant or loan to voluntary organisations concerned with homelessness or related matters under section 180 of the 1996 Act.

5.7 Housing authorities also cannot contract out their functions under the Homelessness Act 2002 which relate to homelessness reviews and strategies. These include:

a. section 1(1): carry out a homelessness review for the district, and formulate and publish a homelessness strategy based on the results of that review;

b. section 1(4): publish a new homelessness strategy within 5 years from the day on which their last homelessness strategy was published; and,

c. section 3(6): keep their homelessness strategy under review and modify it from time to time.

For further advice on homelessness reviews and strategies see Chapter 2.

5.8 Homelessness reviews and the formulation of strategies can, however, be informed by research commissioned from external organisations.

5.9 The 1994 Act also provides that the housing authority is responsible for any act or omission of the contractor in exercising functions under the contract, except:

a. where the contractor fails to fulfil conditions specified in the contract relating to the exercise of the function; or,

b. where criminal proceedings are brought in respect of the contractor's act or omission.

5.10 Where there is an arrangement in force under section 101 of the Local Government Act 1972 whereby one housing authority exercises the functions of another, the 1994 Act provides that the authority exercising the function is not allowed to contract it out without the principal authority's consent.

5.11 Where a housing authority has contracted out the operation of any homelessness functions, the housing authority remains statutorily responsible and accountable for the discharge of those functions. This includes any public sector equality duty obligations under section 149 of the Equality Act 2010. The housing authority will therefore need to ensure that the contract provides for delivery of the homelessness functions in accordance with both the statutory obligations and the authority's own policies on tackling and preventing homelessness.

5.12 Housing authorities should ensure they have adequate contractual, monitoring and quality assurance mechanisms in place to ensure their statutory duties are being fully discharged.

Chapter 6: Homeless or threatened with homelessness

6.1 This chapter provides guidance on how to determine whether a person is 'homeless' or 'threatened with homelessness' for the purposes of the 1996 Act.

6.2 Under section 184, if a housing authority has reason to believe that a person applying to the housing authority for accommodation, or assistance in obtaining accommodation, may be homeless or threatened with homelessness, it must make inquiries to satisfy itself whether the applicant is eligible for assistance and if so, what duties – if any – are owed to that person. For further guidance on applications for assistance see Chapter 18.

Threatened with homelessness

6.3 Under section 175(4), a person is threatened with homelessness if they are likely to become homeless within 56 days.

6.4 Under section 175(5), a person is threatened with homelessness if they have been served with a valid notice in respect of the only accommodation available for their occupation. The circumstances in which Section 175(5) applies are amended by the Renters' Rights Act 2025, which includes transitionary arrangements, and a later commencement date in respect of assured shorthold tenancies of social housing granted by private registered providers.

6.5 To determine whether a section 175(5) duty is owed, housing authorities will need to establish whether the applicant has a private tenancy, which would include a tenancy with a private registered provider that is not social housing; or a social housing tenancy with a private registered provider, and the type of notice served.

6.6 From 1 May 2026 the following assured or assured shorthold tenants of a private landlord, including tenants of a private registered provider where the tenancy is not social housing, will be threatened with homelessness under Section 175(5) if they have been served with valid Housing Act 1988 notice in respect of the only accommodation available for their occupation:

a. A tenant served with notice seeking possession under section 8 where the date specified is within 56 days, other than in very limited circumstances (see paragraph 6.7).

b. A tenant served with a valid section 21 notice before 1 May 2026 which expires within 56 days, and the landlord has applied or is still able to apply for possession. A landlord must make an application for possession within the statutory deadline or by 31 July 2026, whichever is sooner. If an application for possession is not made by that date, a notice served before 1

May 2026 will expire and a landlord can no longer rely on it for possession purposes.

c. A tenant served with a new valid section 21 notice from 1 May 2026, which expires within 56 days. This is possible where the landlord had served valid notice (under section 8 or 21) before 1 May 2026, and that notice has not expired or the landlord has, or is still able to, apply for possession; or where following service of notice on rent arrears grounds the tenant subsequently entered a 'breathing space'.

6.7 A tenant of a private landlord, other than a social housing tenant of a Private Registered Provider, may be served with a valid pre-Renters' Rights Act section 8 notice which does not trigger the section 175(5) duty, but will mean they are, or will become threatened with homelessness in the near future. This may apply where the landlord had served valid notice (under section 21 or 8) before 1 May 2026, and that notice has not expired or the landlord has, or is still able to, apply for possession; or where following service of notice on rent arrears grounds the tenant subsequently entered a 'breathing space'. In these, and other circumstances where transitionary arrangements apply, local housing authorities should ensure tenants have access to accurate advice where necessary to prevent homelessness.

6.8 From 1 May 2026 a tenant of a private registered provider with a social housing tenancy will be threatened with homelessness under Section 175(5) if they have been served with valid section 21 notice in respect of the only accommodation available for their occupation, that expires within 56 days.

6.9 The Renters' Rights Act 2025 amends Schedule 2 of the Housing Act 1988 by adding new grounds for possession and amending or removing certain existing grounds. Housing authorities must familiarise themselves with the revised grounds and their application. For the full list of the grounds for possession and further guidance, including more information on applying grounds to end a tenancy, see the following guidance: Grounds for possession: guidance for landlords and letting agents - GOV.UK

6.10 Section 195 of the Housing Act 1996 provides that where applicants are threatened with homelessness and eligible for assistance, housing authorities must take reasonable steps to help prevent their homelessness. For further guidance on the duty to help prevent homelessness see Chapter 12.

Homeless

6.11 There are a number of different factors that determine whether a person is homeless. Under section 175, a person is homeless if they have no accommodation in the UK or elsewhere which is available for their occupation and which that person has a legal right to occupy. A person is also homeless if they have accommodation but cannot secure entry to it, or the accommodation is a moveable structure, vehicle or vessel designed or adapted for human habitation and there is nowhere it can lawfully be placed in order to provide accommodation. A person who has accommodation is to be treated as homeless where it would

not be reasonable for them to continue to occupy that accommodation. Housing authorities should ask themselves whether the person is homeless at the date of making the decision on their application.

Available for occupation

6.12 Section 176 provides that accommodation shall be treated as available for a person's occupation only if it is available for occupation by them together with:

a. any other person who normally resides with them as a member of the family; or,

b. any other person who might reasonably be expected to reside with them.

6.13 Both of these groups of people constitute members of the applicant's household, and accommodation will only be considered to be available if it is available for occupation by both the applicant and all members of their household.

6.14 The first group covers those members of the family who normally reside with the applicant. It is a question of fact as to who is living with the applicant, and housing authorities are not required to satisfy themselves that it is reasonable for this member of the family to normally reside with them. The phrase 'as a member of the family', although not defined for these purposes in legislation, will include those with close blood or marital relationships and cohabiting partners, and, where such a person is an established member of the household, the accommodation must provide for them as well.

6.15 The second group relates to any other person, and includes those who may not have been living as part of the household at the time of the application but whom it would be reasonable to expect to live with the applicant as part of their household. People in this group might include a companion for an elderly or disabled person, or children who are being fostered by the applicant or a member of their family. This group will also include those members of the family who were not living as part of the household at the time of the application but who nonetheless might reasonably be expected to form part of it.

6.16 In relation to the second group, it is for the housing authority to assess whether any other person might reasonably be expected to live with the applicant and there will be a range of situations that the authority will need to consider. Persons who would normally live with the applicant but who are unable to do so because there is no accommodation in which they can all live together should be included in the assessment. When dealing with a family which has split up, housing authorities will need to take a decision as to which members of the family normally reside, or might be expected to reside, with the applicant. A court may have made a residence order indicating with whom the children are to live, but in many cases it will be a matter of agreement between the parents and a court will not have been involved.

Legal right to occupy accommodation

6.17 Under section 175(1), a person is homeless if they have no accommodation available for occupation in the UK or somewhere else which they have a legal right to occupy by virtue of:

a. an interest in it (e.g. as an owner, lessee or tenant) or by virtue of a court order;

b. an express or implied licence to occupy it (e.g. as a lodger, as an employee with a service occupancy, or when living with a relative); or,

c. any enactment or rule of law giving them the right to remain in occupation or restricting the right of another person to recover possession (e.g. a person with a right to retain occupation as a statutory tenant under the Rent Act 1977 where that person's contractual rights to occupy have expired or been terminated).

6.18 A person who has been occupying accommodation as a licensee whose licence has been terminated (and who does not have any other accommodation available for their occupation) is homeless because they no longer have a legal right to continue to occupy, despite the fact that the person may continue to occupy but as an unauthorised occupier. This may include, for example:

a. those required to leave hostels or hospitals; or,

b. former employees occupying premises under a service occupancy which is dependent upon contracts of employment which have ended.

People asked to leave accommodation by family or friends

6.19 Some applicants may have been asked to leave their current accommodation by family or friends with whom they have been living. In such cases, the housing authority will need to consider carefully whether the applicant's licence to occupy the accommodation has in fact been revoked, rendering the applicant homeless. Authorities are encouraged to be sensitive to situations where parents or carers have been providing a home for a family member with care or support needs (for example, a person with learning difficulties) for a number of years and who are genuinely finding it difficult to continue with that arrangement, but are reluctant to revoke their licence to occupy formally until alternative accommodation can be secured.

6.20 In some cases the applicant may be unable to stay in their accommodation and in others there may be scope for preventing or postponing homelessness, and providing them with an opportunity to plan their future accommodation with assistance from the housing authority. However, housing authorities will need to be sensitive to the possibility that for some applicants it may not be safe for them to remain in, or return to, their home because of a risk of violence or abuse.

6.21 People living with family and friends may have genuine difficulties in finding alternative accommodation that can lead to friction and disputes within their current home, culminating in a threat of homelessness. In some cases external support, or the offer of assistance with securing alternative housing, may help to reduce tension and prevent homelessness. The use of mediation services may assist here.

6.22 In cases involving 16 and 17 year olds threatened with exclusion from the family home children's services authorities will be the lead agency, but should work closely with housing authorities to prevent homelessness and support young people to remain within the family network, wherever it is safe and appropriate for them to do so.

6.23 Housing authorities will also need to be alert to the possibility of collusion where family or friends agree to revoke a licence to occupy accommodation that would have been reasonable for the person to continue to occupy, as part of an arrangement whose purpose is to enable the applicant to be entitled to assistance under Part 7. For further guidance on intentional homelessness see Chapter 9.

Tenant given notice

6.24 With certain exceptions, a person who has been occupying accommodation as a tenant and who has received a valid notice to quit, or notice that the landlord is seeking possession of the accommodation, would have the right to remain in occupation until a warrant for possession was executed (following the granting of an order for possession by the court). The exceptions are tenants with resident landlords and certain other tenants who do not benefit from the Protection from Eviction Act 1977.

6.25 Housing authorities should note that the fact that a tenant has a right to remain in occupation does not necessarily mean that they are not homeless. In assessing whether an applicant is homeless in cases where they are a tenant who has a right to remain in occupation pending execution of a warrant for possession, the housing authority will also need to consider whether it would be reasonable for them to continue to occupy the accommodation in the circumstances (section 175(3), 1996 Act). For guidance on cases involving service of a section 21 or section 8 notice see paragraph 6.46-6.

6.26 Some tenants may face having to leave their accommodation because their landlord has defaulted on the mortgage of the property they rent. Where a mortgage lender starts possession proceedings, the lender is obliged to give written notice of the proceedings to the occupiers of the property before an order for possession is granted. The notice must be given after issue of the possession summons and at least 14 days before the court hearing. Housing authorities will need to consider whether it would be reasonable for an applicant to continue to occupy the accommodation after receiving notice of possession proceedings from the lender. Housing authorities should not consider it reasonable for an applicant to remain in occupation until eviction by a bailiff.

Inability to secure entry to accommodation

6.27 Under section 175(2)(a), a person is also homeless if they have a legal entitlement to accommodation, but is unable to secure entry to it, for example:

a. those who have been evicted illegally; or,

b. those whose accommodation is being occupied illegally by squatters.

6.28 Housing authorities will want to support applicants to pursue the legal remedies available to them to regain possession of their accommodation. However, an authority cannot refuse to assist an applicant who is homeless and eligible for assistance under Part 7 simply because such remedies are available.

Accommodation consisting of a moveable structure

6.29 Section 175(2)(b) provides that a person is homeless if they have accommodation available for their occupation which is a moveable structure, vehicle or vessel designed or adapted for human habitation (e.g. a caravan or houseboat), and there is nowhere that they are entitled or permitted to place it and reside in it. The site or mooring for the moveable structure need not be permanent in order to avoid homelessness. Housing authorities will want to support applicants to pursue the legal remedies available to them to regain possession of their accommodation. However, an authority cannot refuse to assist an applicant who is homeless and eligible for assistance under Part 7 simply because such remedies are available.

Reasonable to continue to occupy

6.30 Section 175(3) provides that a person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for them to continue to occupy. There are a number of provisions relating to whether or not it is reasonable for someone to continue to occupy accommodation and these are discussed below. There is no simple test of reasonableness. It is for the housing authority to make a judgement on the facts of each case, taking into account the circumstances of the applicant.

Domestic abuse or other violence

6.31 Section 177(1) provides that it is not reasonable for a person to continue to occupy accommodation if it is probable that this will lead to domestic abuse or other violence against:

a. the applicant;

b. a person who normally resides with the applicant as a member of the applicant's family; or,

c. any other person who might reasonably be expected to reside with the applicant.

For further guidance on domestic abuse or other violence in determining whether a person is homeless see Chapter 21.

General housing circumstances in the district

6.32 Section 177(2) provides that, in determining whether it is reasonable for a person to continue to occupy accommodation, housing authorities may have regard to the general housing circumstances prevailing in the housing authority's district.

6.33 This comparison might be appropriate, for example, where it was suggested that an applicant was homeless because of poor physical conditions in their current home. In such cases it would be open to the authority to consider whether the condition of the property was so bad in comparison with other accommodation in the district that it would not be reasonable to expect someone to continue to live there.

6.34 Consideration of the general circumstances prevailing in the housing authority's district might also be appropriate in cases of homelessness due to overcrowding.

Affordability

6.35 Affordability must be considered in all cases. The *Homelessness (Suitability of Accommodation) Order 1996* (SI 1996 No.3204) requires the housing authority to consider the affordability of the accommodation for the applicant. The Order specifies, among other things, that in determining both whether it would be (or would have been) reasonable for a person to continue to occupy accommodation and whether the accommodation is suitable, a housing authority must take into account whether the accommodation is affordable for them and must, in particular, take account of:

a. the financial resources available to them;

b. the costs of the accommodation;

c. maintenance payments (to a spouse, former spouse or in respect of a child); and,

d. their reasonable living expenses

For further guidance on affordability and suitability of accommodation see Chapter 17.

Section 13 rent increase

6.36 Private landlords of assured periodic tenancies may increase rents every 12 months under section 13 of the Housing Act 1988. Landlords must provide a minimum of 2 months' notice of the increase, using Form 4A.

6.37 Landlords who are private registered providers may increase rents for assured tenancies that are tenancies of social housing, every 12 months under section 13 of the Housing Act 1988, provided that the tenancy agreement does not include a rent review clause. They must provide a minimum of one month notice of the increase.

6.38 Where an applicant has been served with a valid section 13 notice of an increase housing authorities will need to assess whether the proposed rent would render the accommodation unaffordable for the household, such that it would no longer be reasonable for the applicant to continue to occupy.

a. the financial resources available to them;

b. the costs of the accommodation;

c. maintenance payments (to a spouse, former spouse or in respect of a child); and,

d. their reasonable living expenses

For further guidance on affordability and suitability of accommodation see Chapter 17.

6.39 Applicants may be advised on the process for referring the proposed increase to the First Tier Tribunal if they consider it to be above the rent that the landlord could reasonably expect to receive if they were to let the property on the open market. Whether or not a referral is made, if there is a possibility that the rent may be increased to a level that the household cannot reasonably afford, the applicant will be threatened with homelessness.

Tenant given notice of intention to recover possession for an assured periodic tenancy

6.40 From 1 May 2026, private landlords seeking possession of an assured periodic tenancy must do so by serving a notice under section 8 of the Housing Act 1988, relying on a specified ground (or grounds) in Schedule 2, as amended by the Renters' Rights Act 2025.

6.41 Section 8 of the Housing Act 1988 (as amended) sets out the notice periods landlords must give before commencing possession proceedings, and section 7 provides which are mandatory and which are discretionary grounds. The landlord will need to provide at least four months' notice where the tenant is not 'at fault', whilst the notice periods where the tenant is at fault, for example due to rent arrears, are shorter. The notice period is four weeks for the mandatory rent arrears ground.

6.42 In cases where the applicant has been occupying accommodation as a tenant and has received a valid notice to quit, or a notice that the landlord intends to

recover possession, housing authorities should make contact with the landlord at an early stage. This will be necessary both to understand the circumstances in which the applicant has become threatened with homelessness, and to establish what reasonable steps may be taken by the housing authority and by the applicant to prevent their homelessness.

6.43 A housing authority can give notice to end the section 195(2) prevention duty where 56 days has passed since the prevention duty was accepted, whether or not the applicant is still threatened with homelessness (section 195(8)(b)). However, section 195(6) of the 1996 Act prevents an authority from doing this if the applicant has been given a valid section 8 notice which will expire within 56 days, or has already taken effect, in respect of the only accommodation available for the applicant's occupation. This means an applicant in these circumstances cannot be 'timed out' of the prevention duty if they remain threatened with homelessness, and the authority must continue to help the applicant to retain or secure accommodation until the prevention duty ends in another way.

6.44 However, an authority should give notice to end the section 195 prevention duty when an applicant has become homeless, triggering a section 189B relief duty. It follows that housing authorities will be required to assess at what point a tenant who has been served a valid section 8 becomes homeless and is owed a relief duty; and that expiry of a valid section 8 notice does not automatically render the person homeless for the purposes of the 1996 Act. Under section 175 of the 1996 Act, an applicant must be considered homeless if they have no accommodation to which they have a legal right to occupy that is available to them and reasonable for them to continue to occupy.

6.45 In determining whether it would be reasonable for an applicant to continue to occupy accommodation following expiry of a valid section 8 notice the authority will need to consider all the factors relevant to the case and decide the weight that each should attract. If the landlord confirms a willingness to consider delaying or halting action to recover possession if certain steps are taken, it will usually be reasonable for the tenant to remain in occupation to allow time for action to be taken which may prevent homelessness. This might include, for example, resolving problems with a benefit claim or establishing a manageable repayment schedule for rent arrears.

6.46 Authorities should not adopt a blanket policy or practice on the point at which it will no longer be reasonable for an applicant to occupy following the expiry of a section 8 notice. As well as the factors set out elsewhere in this chapter, factors which may be relevant include the preference of the applicant (who may, for example, want to remain in the property until they can move into alternative settled accommodation if there is the prospect of a timely move, or alternatively to leave the property to avoid incurring court costs); the position of the landlord; the financial impact of court action and any build up of rent arrears on both landlord and tenant; the burden on the courts of unnecessary proceedings where there is no defence to a possession claim that has reasonable prospect of success; and the general cost to the housing authority. Housing authorities will be mindful of the

need to maintain good relations with landlords providing accommodation in the district.

6.47 Throughout any period that an applicant remains in occupation whilst the landlord pursues possession action, the housing authority should keep the reasonable steps in the applicant's personalised housing plan under regular review, and maintain contact with the tenant and landlord to ascertain if there is any change in circumstances which affects whether or not it continues to be reasonable for the applicant to occupy.

6.48 The Secretary of State considers that it is unlikely to be reasonable for the applicant to continue to occupy beyond the date on which the court has ordered them to leave the property and give possession to the landlord.

6.49 Housing authorities should not consider it reasonable for an applicant to remain in occupation up until the point at which a court issues a warrant or writ to enforce an order for possession.

6.50 Housing authorities should ensure that homeless families and vulnerable individuals who are owed a section 188 interim accommodation duty or section 193(2) main housing duty are not evicted through the enforcement of an order for possession as a result of a failure by the authority to make suitable accommodation available to them**.**

Other relevant factors

6.51 Other factors which may be relevant in determining whether it would be reasonable for an applicant to continue to occupy accommodation include:

a. **physical characteristics:** it would not be reasonable for an applicant to continue to occupy accommodation if the physical characteristics of the accommodation were unsuitable for the applicant because, for example, they are a wheelchair user and access was limited;

b. **type of accommodation:** some types of accommodation, for example women's refuges, direct access hostels and night shelters are intended to provide very short-term, temporary accommodation in a crisis and should not be regarded as being reasonable to continue to occupy in the medium and longer-term;

c. **people fleeing harassment:** in some cases severe harassment may fall short of actual violence or threats of violence likely to be carried out. Housing authorities should consider carefully whether it would be, or would have been, reasonable for an applicant to continue to occupy accommodation in circumstances where they have fled, or are seeking to leave, their home because of non-violent forms of harassment, for example verbal abuse or damage to property. Careful consideration should be given to applicants who may be at risk of witness intimidation. In some criminal cases the police may provide alternative accommodation for witnesses, but usually this will apply

for the duration of the trial only. Witnesses may have had to give up their home or may feel unable to return to it when the trial has finished.

6.52 This is not an exhaustive list and authorities will need to take account of all relevant factors when considering whether it is reasonable for an applicant to continue to occupy accommodation.

Chapter 7: Eligibility for assistance

7.1 This chapter provides guidance on the provisions relating to an applicant's eligibility for homelessness services.

7.2 Housing authorities have a duty to provide or secure the provision of advice and information about homelessness and the prevention of homelessness, free of charge which must be available to any person in their district. All applicants, including those who are ineligible as a result of their immigration status, will be able to access this form of assistance from the housing authority. Housing authorities should refer applicants to appropriate support which they may be entitled to where relevant. For further guidance on the provision of advice and information on homelessness and the prevention of homelessness see Chapter 3.

7.3 Part 7 of the 1996 Act includes provisions that make certain people from abroad ineligible for housing assistance. Housing authorities will therefore need to satisfy themselves that applicants are eligible before providing housing assistance. The provisions on eligibility are complex and housing authorities will need to ensure that they have procedures in place to carry out appropriate checks on housing applicants.

7.4 Housing authorities should ensure that staff who are required to screen applicants about eligibility for assistance are given training in the complexities of the housing provisions, the housing authority's duties and responsibilities under the Equality Act 2010 and are able to deal with applicants in a sensitive manner.

7.5 Local authorities are reminded that in section 117 of the Immigration and Asylum Act 1999 and Schedule 3 to the Nationality, Immigration and Asylum Act 2002 provides that certain persons shall not be eligible for support or assistance provided through the exercise of housing authorities' powers to secure accommodation pending a review (section 188(3)) or pending an appeal to the county court (section 204(4)). For further guidance see paragraphs 7.24–7.27.

Persons from abroad

7.6 A person will not be eligible for assistance under Part 7 if they are a person from abroad who is ineligible for housing assistance under section 185 of the 1996 Act. In particular:

a) a 'person subject to immigration control' is not eligible for housing assistance unless they come within a class prescribed in regulations made by the Secretary of State; and,

b) the Secretary of State can make regulations to provide for other descriptions of person from abroad who, although they are not subject to immigration control, are to be treated as ineligible for housing assistance.

7.7 The regulations that set out which classes of persons from abroad are eligible or ineligible for housing assistance are the Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006 (SI 2006/1294, as amended) ('the Eligibility Regulations'). Persons subject to immigration control are not eligible for housing assistance unless they fall within a class of persons prescribed in regulation 5 of the Eligibility Regulations . Persons who are not subject to immigration control will be eligible for housing assistance unless they fall within a description of persons who are to be treated as persons from abroad who are ineligible for assistance by virtue of regulation 6 of the Eligibility Regulations (SI 2006/1294 as amended).

Persons subject to immigration control

7.8 The term 'person subject to immigration control' is defined in section 13(2) of the Asylum and Immigration Act 1996 as a person who requires leave to enter or remain in the United Kingdom (whether or not such leave has been given).

7.9 The provisions of section 7(1) of the Immigration Act 1988 and the Asylum and Immigration Act 1996 have been saved for the purpose of housing legislation to protect the rights of *EEA citizens, and their family members, who have citizens' rights pursuant to the Withdrawal Agreement*

This will ensure that EEA citizens, and their family members, who

1) have acquired limited leave to enter and remain in the UK (also known as pre-settled status) by virtue of Appendix EU of the Immigration Rules ("the EU Settlement Scheme"); or

2) were frontier working in the UK prior to 31 December 2020; will continue to be treated as 'persons not subject to immigration control' in the instances where they would previously have been, so that their eligibility for housing assistance can be judged on the basis of Regulation 6 of the Eligibility Regulations as was the case prior to 31 December 2020.

7.10 EEA citizens, and their family members, who have been granted indefinite leave to enter or remain (also known as settled status) under the EU Settlement Scheme do not need the savings to apply to them. Their eligibility should be judged on the basis of Class C of Regulation 5 of the Eligibility Regulations, as is the case for persons subject to immigration control who have been granted indefinite leave to remain. In general, they should be eligible provided they can demonstrate habitual residence in the Common Travel Area. For the purpose of this guidance the Common Travel Area includes those who are resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

For the purpose of this guidance references to "the Withdrawal Agreement" in this note are to the "Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (2019/C 384 I/01)". Equivalent provisions are to be found in

separation agreements relating to the European Economic Area/European Free Trade Agreement and the EU/Swiss Free Movement of Persons Agreement, which are also given effect in domestic law by the European Union (Withdrawal Agreement) Act 2020.]

7.11 Only the following categories of person do not require leave to enter or remain in the UK:

a) British citizens;

b) certain Commonwealth citizens with a right of abode in the UK;

c) Irish citizens, who are not subject to immigration control in the UK because the Republic of Ireland forms part of the Common Travel Area (see paragraph

7.10) with the UK which allows free movement

d) by operation of the savings provisions referred to at 7.9 above EEA citizens and their family members, who have established citizens' rights in accordance with Part 2 of the Withdrawal Agreement (i.e. those who were resident and have exercised a right to reside in the UK derived from European Union law or any provision under section 2(2) of the European Communities Act 1972, and those who were frontier working, before 31 December 2020. Whether an EEA citizen (or family member) has exercised a right to reside in the UK or rights to be treated as a frontier worker will depend on their circumstances at that particular time. For example, whether the EEA citizen is, for the purposes of the Immigration (European Economic Area) Regulations 2016 (SI

2016/1052) ('the EEA Regulations') (as preserved by the savings provisions) a jobseeker, a worker, a self-employed person and so on.

e) persons who are exempt from immigration control under the Immigration Acts, including diplomats and their family members based in the United Kingdom, and some military personnel.

For the purposes of this guidance, 'EEA citizens means nationals of any of the EU member states, and nationals of Iceland, Norway, Liechtenstein and Switzerland.

7.12 Any person who does not fall within one of the 4 categories in paragraph 7.11 above will be a person subject to immigration control and will be ineligible for housing assistance unless they fall within a class of persons prescribed by regulation 5 of the Eligibility Regulations (see paragraph 7.14 below).

7.13 If there is any uncertainty about an applicant's immigration status, it is recommended that authorities contact the Home Office or associated partners and organisations. In some circumstances, local authorities may be under a duty to contact the Home Office.

Persons subject to immigration control who are eligible for housing assistance

7.14 Generally, persons subject to immigration control are not eligible for housing assistance. However, by virtue of regulation 5 of the Eligibility Regulations, the following classes of person subject to immigration control are eligible for housing assistance:

a) a person whose refugee status has been recognised by the Secretary of State and who has leave to enter and remain in the UK. Persons granted refugee status are usually granted 5 years' limited leave to remain in the UK;

b) a person who has discretionary leave to enter or remain in the United Kingdom granted outside the provisions of the Immigration Rules; and whose leave to enter or remain is not subject to a condition requiring them to maintain and accommodate themselves, and any person who is dependent on them, without recourse to public funds;

c) a person with current leave to enter or remain in the UK with no condition or limitation, and who is habitually resident in the UK, the Channel Islands, the Isle of Man or the Republic of Ireland (Common Travel Area): such a person will have indefinite leave to enter or indefinite leave to remain and will be regarded as having settled status. However, where indefinite leave to enter or indefinite leave to remain status was granted as a result of an undertaking that a sponsor would be responsible for the applicant's maintenance and accommodation, the applicant must have been resident in the Common Travel Area for 5 years since the date of entry – or the date of the sponsorship undertaking, whichever is later – for the applicant to be eligible. Where a sponsor has (or, if there was more than one sponsor, all of the sponsors have) died within the first 5 years, the applicant will be eligible for housing assistance;

d) a person who has humanitarian protection granted under paragraphs 339C – 344C of the Immigration Rules;

e) a person who has limited leave to enter or remain in the United Kingdom on family or private life grounds under Article 8 of the Human Rights Act, such leave granted under paragraph 276BE (1), paragraph 276DG or Appendix FM of the Immigration Rules, and who is not subject to a condition requiring that person to maintain and accommodate themselves, and any person dependent upon them, without recourse to public funds;

f) a person who is habitually resident in the Common Travel Area and who has been transferred to the United Kingdom under section 67 of the Immigration Act 2016 and has limited leave to remain under paragraph 352ZH of the Immigration Rules;

g) a person who is habitually resident in the Common Travel Area and who has Calais leave to remain under paragraph 352J of the Immigration Rules. (Effective from 1 November 2018);

h) a person who is habitually resident in the Common Travel Area and who has limited leave to remain in the UK as a stateless person under paragraph 405 of the Immigration Rules;

i) a person who has limited leave to enter and remain in the UK as the family member of a 'relevant person of Northern Ireland' by virtue of Appendix EU to the Immigration Rules;

j) a person who has limited leave to enter or remain in the United Kingdom under Appendix Hong Kong British National (Overseas) of the Immigration Rules, who is habitually resident in the Common Travel Area, and who is not subject to a condition requiring that person to maintain and accommodate themselves, and any person dependent upon them, without recourse to public funds;

k) a person who has been granted leave by virtue of the Afghan Relocations and Assistance Policy or the previous scheme for locally-employed staff in Afghanistan;

l) a person with leave to enter or remain in the United Kingdom who left Afghanistan in connection with the collapse of the Afghan government that took place on 15 August 2021 and who is not subject to a condition of no recourse to public funds and has not been given leave to enter or remain as a result of an undertaking that a sponsor would be responsible for the applicant's maintenance and accommodation. However, a person who was sponsored will be eligible for housing assistance if the applicant has been resident in the Common Travel Area for 5 years since the date of entry (or the date of the sponsorship undertaking, whichever is later) or their sponsor(s) have died;

m) a person in the UK who left Ukraine in connection with the Russian invasion on 24 February 2022 and had resided in Ukraine immediately before 1 January 2022, and who has been granted leave in accordance with Immigration rules made under section 3(2) of the Immigration Act 1971;

n) a person in the United Kingdom who has limited leave to remain granted in accordance with Appendix Ukraine Scheme of the immigration rules pursuant to an application made by that person from within the United Kingdom;

o) a person who has limited leave to remain granted in accordance with Appendix Temporary Permission to Stay for Victims of Human Trafficking or Slavery of the Immigration Rules;

p) a person who was residing in Sudan before 15 April 2023 and left Sudan in connection with the violence which rapidly escalated on 15 April 2023 in Khartoum and across Sudan; has been granted leave in accordance with the immigration rules; and whose leave is not subject to a condition requiring that person to maintain and accommodate themselves, and any person dependent upon them, without recourse to public funds and was not given as

a result of an undertaking that a sponsor would be responsible for the applicant's maintenance and accommodation. However, a person who was sponsored will be eligible for housing assistance if the applicant has been resident in the Common Travel Area for 5 years since the date of entry (or the date of the sponsorship undertaking, whichever is later) or their sponsor(s) have died;

q) a person who was residing in Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon immediately before 7 October 2023, and left Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon in connection with the Hamas terrorist attack in Israel on 7 October 2023 or the violence which rapidly escalated in the region following the attack; and whose leave is not subject to a condition of no recourse to public funds and was not given as a result of an undertaking that a sponsor would be responsible for the applicant's maintenance and accommodation. However, a person who was sponsored will be eligible for an allocation of accommodation if the applicant has been resident in the Common Travel Area for 5 years since the date of entry (or the date of the sponsorship undertaking, whichever is later) or their sponsor(s) have died;

r) a person who has indefinite leave to enter the United Kingdom, by virtue of the Appendix Victim of Domestic Abuse to the Immigration Rules in circumstances where the person is a victim of transnational marriage abandonment.

s) a person who has limited leave to enter or limited leave to remain in the United Kingdom and who, after making a change of conditions application, has had their no recourse to public funds condition lifted by the Home Office in accordance with section 3(1)(c)(ii) of the Immigration Act 1971(d), and is not a person within paragraph 7.14 e or 7.14 j above.

t) a person residing in a country or territory and:

- who left that country or territory when His Majesty's Government (HMG) provided public information to advise British nationals to leave that country or territory or has arranged an evacuation of British nationals from that country or territory,
- who has leave to enter or remain in the United Kingdom in accordance with the immigration rules made under section 3(2) of the Immigration Act 1971),
- that leave is not subject to the condition that there must be 'no recourse to public funds',
- that leave is not granted as a result of an undertaking that a sponsor would be responsible for the applicant's maintenance and accommodation (however a person who was sponsored will be eligible for homelessness assistance if the applicant has been resident in the Common Travel Area for 5 years since the date of entry (or the date of the sponsorship undertaking, whichever is later, or their sponsor(s) have died)), and

- who made an application for homelessness assistance within the 6 month period beginning with the date on which HMG first provided public information to advise British nationals to leave that country or territory, or the first day of an HMG evacuation operation of British nationals from that country or territory, whichever is later (the 6-month window).

7.15 With regard to the cohort at paragraph (7.14 t), this class is designed to facilitate MHCLG's immediate response to emergencies arising overseas as part of HMG's broader response for the persons in scope, therefore there is a 6-month time limit.

7.16 The class applies to all applications made on or after 18 July 2025. It will therefore apply to persons who have left the following countries or territories as a result of HMG's advice to leave or evacuation of British nationals, so long as the applicant meets the full criteria set out above including that the application is made by the 6month window deadline noted:

- South Sudan - for applications made on or before 26 September 2025 (HMG provided public information to advise British nationals to leave South Sudan on 27 March 2025).
- Israel and the Occupied Palestinian Territories - for applications made on or before 22 December 2025 (HMG began evacuation of British nationals on 23 June 2025).
- Jamaica - for applications made on or before 30 April 2026 (HMG arranged an evacuation of British nationals on 1 November 2025).
- Bahrain, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Oman, Palestine, Qatar, Saudi Arabia, the United Arab Emirates (UAE), and Yemen - for applications made on or before 5 September 2026 (HMG arranged an evacuation of British nationals from the region which began on 6 March 2026).

7.17 This list (7.16) will be kept under review and be updated for future conflicts or crises that fall under provision 7.14 t). The Secretary of State will also notify local authorities when this occurs. To note, advice to leave a country will only fall under this class when that advice was to leave an entire country.

Asylum seekers

7.17 Under section 186 of the 1996 Act, an asylum seeker who would otherwise be eligible for housing assistance will be ineligible if they have any accommodation available in the UK for their occupation, however temporary. This exclusion is only relevant to pre-April 2000 asylum seekers who are eligible for homelessness assistance.

Other persons from abroad who are ineligible for assistance

7.19 By virtue of regulation 6 of the Eligibility Regulations, a person who is not subject to immigration control and who falls within one of the following descriptions of

persons is to be treated as a person from abroad who is ineligible for housing assistance:

a) a person who is not habitually resident in the Common Travel Area (subject to certain exceptions – see paragraph 7.18 below);

b) a person whose only right to reside in the UK is derived from their status as a jobseeker (or their status as the family member of a jobseeker). For this purpose, 'jobseeker' has the same meaning as for the purpose of regulation 6(1)(a) of the *Immigration (European Economic Area) Regulations 2016* (SI 2016 No. 1052) ('the EEA Regulations');

c) a person whose only right to reside in the UK is an initial right to reside for a period not exceeding three months under regulation 13 of the EEA Regulations;

d) a person whose only right to reside in the UK is a derivative right to reside to which they are entitled under regulation 16(1) of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in regulation 16(5) of those Regulations;

e) a person whose only right to reside in the Common Travel Area is a right equivalent to one of those mentioned in sub-paragraph (b-d) above.

7.20 For the purposes of determining eligibility for homelessness assistance, subject to paragraph 7.35, a person who is not subject to immigration control and who falls within categories (b) or (c) in paragraph 7.16 above should be treated as ineligible. This is regardless of whether such person has been granted limited leave to enter or remain in the UK by virtue of Appendix EU of the Immigration Rules; or a family permit issued under the EU Settlement Scheme granting them limited leave to enter the UK by virtue of the Immigration (Leave to Enter and Remain) order 2000.

Persons exempted from the requirement to be habitually resident

7.21 Certain persons from abroad are not subject to the requirement to be habitually resident in the UK, the Channel Islands, the Isle of Man or the Republic of Ireland. Such a person will be eligible for assistance even if not habitually resident, if they are:

a) an EEA citizen who has been granted pre-settled status and is in the UK as a worker (which has the same meaning as it does for the purposes of regulation 6(1) of the EEA Regulations);

b) an EEA citizen who has been granted pre-settled status and is in the UK as a self-employed person (which has the same meaning as it does for the purposes of regulation 6(1) of the EEA Regulations);

c) a person who has been granted pre-settled status and is treated as a worker for the purpose of the definition of 'qualified person' in regulation 6(1) of the EEA Regulations pursuant to regulation 5 of the Accession of Croatia

(Immigration and Worker Authorisation) Regulations 2013 (as amended), (right of residence of an accession State national subject to worker authorisation);

d) a person who has been granted pre-settled status and is a family member of a person referred to in (a) to (c) above;

e) a person who is in the UK as a result of their deportation, expulsion or other removal by compulsion of law from another country to the UK;

f) a person who is in the United Kingdom as a frontier worker for the purpose of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020 (SI

2020/1213) (as defined in 7.19 below);

g) a person who is a family member of a person referred to in (f) above and has a right to reside by virtue of having been granted limited leave to enter or remain in the United Kingdom, as a family member of a relevant EEA citizen, under the Immigration Act 1971 by virtue of Appendix EU to the immigration rules made under section 3 of that Act;

h) a person who left Afghanistan in connection with the collapse of the Afghan government that took place on 15 August 2021;

i) a person who left Ukraine in connection with the Russian invasion on 24 February 2022 and had resided in Ukraine immediately before 1 January

2022 and is not subject to immigration control;

j) a person who was residing in Sudan before 15 April 2023 and left Sudan in connection with the violence which rapidly escalated on 15 April 2023 in

Khartoum and across Sudan;

k) a person who was residing in Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon immediately before 7 October

2023, and left Israel, the West Bank, the Gaza Strip, East Jerusalem, the

Golan Heights or Lebanon in connection with the Hamas terrorist attack in Israel on 7 October 2023 or the violence which rapidly escalated in the region following the attack;

l) a person who has indefinite leave to enter the United Kingdom by virtue of the Appendix Victim of Domestic Abuse to the Immigration Rules in circumstances where the person is a victim of transnational marriage abandonment.

m) a person residing in a country or territory and who left that country or territory when His Majesty's Government (HMG) provided public information to advise British nationals to leave that country or territory or has arranged an evacuation of British nationals from that country or territory, and who made an application for homelessness assistance within the 6 month period beginning

with the date on which HMG first provided public information to advise British nationals to leave that country or territory, or the first day of an evacuation operation by HMG of British nationals from that country or territory, whichever is later (the 6month window).

7.22 With regard to the cohort at paragraph (7.20 m), this provision is designed to facilitate MHCLG's immediate response to emergencies arising overseas as part of HMG's broader response for the persons in scope, therefore there is a 6-month time limit.

7.23 The provision applies to all applications made on or after it came into force on 18 July 2025. It will therefore apply to persons who have left the following countries or territories as a result of HMG advice to leave to or evacuation of, British nationals, so long as the applicant meets the full criteria set out above and the application is made by the 6-month window deadline noted:

- South Sudan - for applications made on or before 26 September 2025 (HMG provided public information to advise British nationals to leave South Sudan on 27 March 2025).
- Israel and the Occupied Palestinian Territories - for applications made on or before 22 December 2025 (HMG began evacuation of British nationals on 23 June 2025).
- Jamaica – for applications made on or before 30 April 2026 (HMG arranged an evacuation of British nationals on 1 November 2025).
- Bahrain, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Oman, Palestine, Qatar, Saudi Arabia, the United Arab Emirates (UAE), and Yemen - for applications made on or before 5 September 2026 (HMG arranged an evacuation of British nationals from the region which began on 6 March 2026).

7.24 This list (7.23) will be kept under review and be updated for future conflicts or crises that fall under provision 7.20 m). The Secretary of State will also notify local authorities when this occurs. To note, advice to leave a country will only fall under this class when that advice was to leave an entire country.

7.25 With regard to paragraph 7.18 (a) and (b), authorities should note that a person who is not currently working or self-employed will retain their status as a worker or self-employed person in certain circumstances. A person who is no longer working does not cease to be treated as a 'worker' for the purpose of regulation 6(1)(b) of the EEA Regulations, if he or she: (a) is temporarily unable to work as the result of an illness or accident; or (b) is recorded as involuntarily unemployed after having being employed in the UK, provided that he or she has registered as a jobseeker with the relevant employment office, and: (i) was employed for one year or more before becoming unemployed, or (ii) has been unemployed for no more than 6 months, or (iii) can provide evidence that he or she is seeking employment in the UK and has a genuine chance of being engaged; or (c) is involuntarily unemployed and has embarked on vocational training; or (d) has voluntarily

ceased working and embarked on vocational training that is related to his or her previous employment.

7.26 EEA citizens who have established citizens' rights in accordance with Part 2 of the Withdrawal Agreement can be joined by close family members (spouses, civil and unmarried partners, dependent children and grandchildren, and dependent parents and grandparents) who live in a different country at any point in the future, if the relationship existed before/on 31 December 2020 and still exits when the family member wishes to join the EEA citizen in the UK. The family member will have3 months from their date of arrival, , to apply to the EU Settlement Scheme. If the family member is a third country national, they can apply for an EU Settlement Scheme family permit. Information relevant to this can be found at: https://www.gov.uk/family-permit/. With regard to paragraph 7.18 (d), authorities should note that 'family member' does not include a person who is an extended family member who is treated as a family member by virtue of regulation 7(3) of the EEA Regulations. When considering the eligibility of a family member, housing authorities should consider whether the person has acquired indefinite leave to remain in the UK in their own right, for example, a family member at the point they are eligible and are granted settled status under the EU Settlement Scheme.

The habitual residence test

7.27 The term 'habitual residence' is intended to convey a degree of permanence in the person's residence in the UK, the Channel Islands, the Isle of Man or the Republic of Ireland; it implies an association between the individual and the place of residence and relies substantially on fact.

7.28 The Secretary of State considers that it is likely that applicants who have been resident in the UK, Channel Islands, the Isle of Man or the Republic of Ireland continuously during the 2-year period prior to their housing application will be habitually resident. In such cases, therefore, housing authorities may consider it unnecessary to make further enquiries to determine whether the person is habitually resident, unless there are other circumstances that need to be taken into account. A period of continuous residence in the UK, Channel Islands, the Isle of Man or the Republic of Ireland might include periods of temporary absence. Where 2 years' continuous residency has not been established, housing authorities will need to conduct further enquiries to determine whether the applicant is habitually resident.

7.29 A person will not generally be habitually resident anywhere unless they have taken up residence and lived there for a period. There will be cases where the person concerned is not coming to the UK for the first time, and is resuming a previous period of habitual residence. For further guidance on habitual residence see Annex 1.

Persons ineligible under certain provisions by virtue of Schedule 3 to the Nationality, Immigration and Asylum Act 2002

7.30 Section 54 of, and Schedule 3 to, the Nationality, Immigration and Asylum Act 2002 have the effect of making certain applicants for housing assistance ineligible for accommodation under section 188(3) (power to accommodate pending a review) or section 204(4) (power to accommodate pending an appeal to the county court) of the 1996 Act. The following classes of person will be ineligible for assistance under those powers:

a) person who has refugee status abroad

b) a person who was (but is no longer) an asylum seeker and who fails to cooperate with removal directions issued in respect of them;

c) a person who is in the UK in breach of the immigration laws (within the meaning of section 50A of the British Nationality Act 1981) and is not an asylum seeker;

d) certain persons who are failed asylum seekers with dependent children, where the Secretary of State has certified that, in their opinion, such a person has failed without reasonable excuse to take reasonable steps to leave the UK voluntarily or place themselves in a position where they are able to leave the UK voluntarily, and that person has received the Secretary of State's certificate more than 14 days previously;

e) a person who is the dependant of a person who falls within class (a) above.

7.31 However, section 54 and Schedule 3 do not prevent the exercise of an authority's powers under section 188(3) and section 204(4) of the 1996 Act to the extent that such exercise is necessary for the purpose of avoiding a breach of a person's rights under the European Convention of Human Rights.

To note, in some cases support and assistance may continue to be provided to a child; or in cases where such support and assistance are permitted by regulations.

7.32 Paragraph 14 of Schedule 3 provides, among other things, that authorities must inform the Secretary of State where the powers under section 188(3) or section 204(4) apply, or may apply, to a person who is, or may come, within classes (c) or (d) in paragraph 7.24 by contacting the Home Office.

7.33 For further guidance, local authorities should refer to Guidance to Local Authorities and Housing Authorities about the Nationality, Immigration and Asylum Act, Section 54 and Schedule 3, and the Withholding and Withdrawal of Support (Travel Assistance and Temporary Accommodation) Regulations 2002, issued by the Home Office. Guidance will be updated in due course.

Restricted cases

7.34 A restricted case is a case where the housing authority would not be satisfied that the applicant had a priority need for accommodation without having had regard to a 'restricted person' within the household. This would be the case, for example, where an applicant who is an eligible British citizen who would not have priority need if they applied alone, does have priority need because of their dependent children who are 'restricted persons'.

7.35 A restricted person means a person who is not eligible for assistance under Part 7 of the 1996 Act and is subject to immigration control and either:

a) does not have leave to enter or remain in the UK; or,

b) does have leave but it is subject to a condition of no recourse to public funds.

7.36 In a restricted case, the housing authority must, so far as reasonably practical, bring the section 193(2) duty to an end by arranging for an offer of an assured shorthold tenancy to be made to the applicant by a private landlord (a private rented sector offer of at least 12 months in length).

7.37 Prior to the 31 December 2020 an EEA citizen who resided in the UK on the basis of domestic leave rather than on the basis of EU law, and who is eligible for homelessness assistance (for example where they have been granted discretionary leave to remain on the basis that they were an asylum seeker) is in the same position as a British national at para 7.26 above. This means that they can rely on a 'restricted person' to establish their case for assistance.

7.38 From 1 January 2021 EEA citizens will be bought in line with third country nationals and they will not be able to rely on a 'restricted person' to make their application, unless the EEA citizen applicant was resident prior to the 31 December 2020 on the basis set out at para 7.28 above, in which case their rights have been preserved.

7.39 Where a housing authority considers a household member of an applicant may be a restricted person who does not have leave to enter or remain in the UK, or if there is uncertainty about the immigration status of any household member, it is recommended that the authority contact the Home Office.

7.40 Managing applications for homelessness assistance from EEA citizens from 1 July 2021

a) EEA citizens who have not applied to the EU Settlement Scheme and who do not have a different form of UK immigration status will be considered to have no lawful basis for remaining in the UK. They will need to obtain status under the EU Settlement Scheme or another UK immigration status to resolve this. In line with the Withdrawal Agreements, late applications to the EU Settlement Scheme will be accepted where there are reasonable grounds for missing the 30 June 2021

deadline. An applicant who has made a valid application for the EU Settlement Scheme and is awaiting a decision, who was resident and exercising a qualifying right to reside in the UK by 31 December 2020 should be treated as eligible if they have a permanent right to reside (normally acquired after 5 years), or are working, self-employed or a Baumbast Carer at the time of their application for homelessness assistance.

b) Newly arriving EEA citizens and their family members who have moved to the UK from 1 January 2021 will (unless they are eligible to apply to the EUSS in another capacity, such as being a joining family member) come under the new points-based immigration system. Under that system, access to homelessness assistance will be the same for EEA and non-EEA citizens. They will generally be considered eligible after indefinite leave to remain is granted, usually after five years of continuous residence; unless they are within one of the exempted categories under Regulation 5 of the Eligibility Regulations.

7.41 Managing applications for homelessness assistance for EU nationals with pre-settled status who are not exercising a relevant right to reside

a) Section 45 of the Border Security, Asylum and Immigration Act 2025 means that all EU, EEA and Swiss nationals with pre-settled status (PSS) under the EU Settlement Scheme (EUSS) who were residing in the UK at the end of the transition period (11pm on 31 December 2020) – including PSS holding family members of EU nationals – and their non-EU national EUSS holding family members (including those who joined them after 31 December 2020 provided the family relationship existed at that date), will be treated as a beneficiary under the Withdrawal Agreement (WA), irrespective of whether they are in the actual scope of the WA. As a result, such persons have the benefit of the EU Charter of Fundamental Rights (the Charter), which includes the right to dignity under Article 1 of the Charter in line with the Court of Appeal ruling in *SSWP v AT*. It should be noted that claims from individuals from Norway, Iceland, Liechtenstein and Switzerland and their non-EU family members remain out of scope of the AT judgment.

b) When considering eligibility for homelessness assistance for an applicant with the benefit of the Charter but who, at the time of application, is not exercising a relevant qualifying right to reside[2], local housing authorities need to consider if a

‘not eligible’ decision would amount to a breach of the applicant’s right to dignity under the Charter (a ‘Charter breach’). The threshold for such a breach is the applicant’s inability to meet their most basic housing needs at present or in the near future. The threshold is high and the applicant’s position must be incompatible with human dignity within the meaning of Article 1 of the Charter.

[2] Such as being a worker, a self-employed person, a job seeker, a self-sufficient person, a student, having a permanent, retained, or derived right of residence, or being within the initial 3 months of arrival in the UK. Their family members are also in scope, including family members who joined after the end of the transition period.

c) For the purposes of homelessness assistance, local housing authorities will need to consider if the applicant is able to meet their most basic housing needs or has any means of meeting those needs. The Secretary of State considers basic housing needs to be housing that is safe, irrespective of the applicant's desired location of the type or tenure of the property. In the case of applicants without children who may be facing street homelessness, access to hostels to relieve such circumstances would be sufficient to avoid a Charter breach.

d) A local housing authority will need to make its own decision, but in making that decision, may wish to consider whether the applicant has sufficient means to obtain housing or receives welfare benefits. The Department for Work and Pensions has issued guidance for decision makers which sets out the matters it will consider when deciding whether an award of benefits is required to avoid a Charter breach. Where an applicant is able to work or get support from family or friends, refusal of homelessness assistance may not violate their Charter rights, for example, if they themselves are able to remedy their situation through securing employment that will allow them to pay for housing. When determining an applicant's inability to work or get support from family or friends, consideration should reasonably be given to factors preventing the applicant from working or accessing such support. This may be the case where the applicant has additional needs, such as physical or mental health needs, having childcare or other caring responsibilities, being a victim of domestic violence, or having other complex needs which mean the applicant is unable to work at that moment.

e) If DWP finds that an applicant does not need benefits to avoid a Charter breach, the Secretary of State considers it to be highly unlikely that the applicant will need homelessness assistance to avoid a Charter breach. In the majority of cases, if the applicant receives benefits (such as UC, state pension credit, or housing benefit), they will then be able to secure their own accommodation and alleviate or avoid a Charter breach and, therefore, it will be unlikely they will also need homelessness assistance beyond housing advice and information. However, there may be applicants for whom receipt of benefits along with housing advice will not be sufficient to avoid a breach, or who do not require benefits as they can meet daily living costs now or by accessing employment but do require assistance to secure housing. This may be the case where the applicant has additional needs, such as physical or mental ill health or learning disability, that makes it more challenging for them to source their own housing or means it is harder to find housing that meets their basic needs (such as requiring adaptations).

f) If the local housing authority determines homelessness assistance is required to avoid a Charter breach, they must find the applicant eligible for homelessness assistance under Part VII of the Housing Act 1996 until the duty ends in line with the homelessness legislation. This could include them becoming ineligible if their circumstances change and assistance is no longer required to avoid a Charter breach.

g) Where a person has been granted EUSS status, the Home Office has decided that the person meets the requirements of the EUSS. Housing Authorities are

expected to rely on that decision for as long as the person continues to hold EUSS status.

Chapter 8: Priority need

8.1 This chapter provides guidance on the categories of applicant who have a priority need for accommodation under the homelessness legislation.

8.2 Housing authorities have duties to try and prevent or relieve homelessness for all applicants who are eligible for assistance and are homeless or threatened with homelessness, irrespective of whether or not they may have a priority need for accommodation. If a housing authority is unable to prevent an applicant from becoming homeless, or to help them to secure accommodation within the 'relief' stage, they are required to reach a decision as to whether the applicant has a priority need for accommodation.

8.3 Section 188(1) of the 1996 Act requires housing authorities to secure that accommodation is available for an applicant if they have reason to believe that the applicant **may** be homeless, eligible for assistance and have a priority need. The housing authority may bring this 'interim' accommodation duty to an end during the relief stage if they subsequently find that the applicant does not have priority need (or are not eligible or not homeless) and issues a decision that the applicant will not be owed further duties at the end of the relief duty. For further guidance on accommodation duties see chapter 15. Section 193(2) of the 1996 Act requires housing authorities to secure accommodation for applicants who have a priority need for accommodation section 189(1) and the *Homelessness (Priority Need for Accommodation) (England) Order 2002* (the '2002 Order') provide that the following categories of applicant have a priority need for accommodation:

a. a pregnant woman or a person with whom she resides or might reasonably be expected to reside (see paragraph 8.5);

b. a person with whom dependent children reside or might reasonably be expected to reside (see paragraphs 8.6-8.12);

c. a person who is homeless as a result of that person being a victim of domestic abuse (see paragraph 8.13);

d. a person who is vulnerable as a result of old age, mental illness, learning disability or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside (see paragraphs 8.14-8.19);

e. a person aged 16 or 17 who is not a 'relevant child' or a child in need to whom a local authority owes a duty under section 20 of the Children Act 1989 (see paragraphs 8.20-8.23);

f. a person under 21 who was (but is no longer) looked after, accommodated or fostered between the ages of 16 and 18 (except a person who is a 'relevant student');

g. a person aged 21 or more who is vulnerable as a result of having been looked after, accommodated or fostered (except a person who is a 'relevant student') (see paragraphs 8.28-8.31);

h. a person who is vulnerable as a result of having been a member of Her Majesty's regular naval, military or air forces (see paragraphs 8.32-8.33);

i. a person who is vulnerable as a result of:
   i. having served a custodial sentence;
   ii. having been committed for contempt of court or any other kindred offence; or, iii. having been remanded in custody;(see paragraphs 8.34-8.35);

j. a person who is vulnerable as a result of ceasing to occupy accommodation because of violence from another person or threats of violence from another person which are likely to be carried out (see paragraphs 8.36-8.37);

k. a person who is homeless, or threatened with homelessness, as a result of an emergency such as flood, fire or other disaster.

8.4 Once a housing authority has notified an applicant that they have a priority need and have been accepted as owed the section 193(2) duty it cannot subsequently change that decision if the applicant subsequently ceases to have a priority need (e.g. because a dependent child leaves home), except where a review has been requested and the change takes place before the review decision. Any change of circumstance prior to the decision on the homelessness application should be taken into account. However, once all the relevant inquiries are completed, the housing authority should not defer their decision on the case in anticipation of a possible change of circumstance.

Pregnant women

8.5 A pregnant woman, and anyone with whom she lives or might reasonably be expected to live, has a priority need for accommodation. This is regardless of the length of time that the woman has been pregnant. Normal confirmation of pregnancy, e.g. a letter from a medical professional, such as a midwife, should be adequate evidence of pregnancy. If a pregnant woman suffers a miscarriage or terminates her pregnancy before a decision is reached as to whether she is owed section 193(2) main housing duty the housing authority should consider whether she continues to have a priority need as a result of some other factor (e.g. she may be vulnerable as a result of another special reason – see paragraph 8.38).

Dependent children

8.6 Applicants have a priority need if one or more dependent children is living with them or might reasonably be expected to live with them. There must be actual dependence on the applicant, although the child need not be wholly and exclusively dependent on them. There must also be actual residence (or a

reasonable expectation of residence) with some degree of permanence or regularity, rather than a temporary arrangement whereby the children are merely staying with the applicant for a limited period (see paragraphs 8.10 and 8.11). Similarly, the child need not be wholly and exclusively resident (or expected to reside wholly and exclusively) with the applicant.

8.7 The 1996 Act does not define dependent children, but housing authorities may wish to treat as dependent all children under 16, and all children aged 16-18 who are in, or are about to begin, full-time education or training or who for other reasons are unable to support themselves and who live at home. The meaning of dependency is not however, limited to financial dependency. Thus, while children aged 16 and over who are in full-time employment and are financially independent of their parents would not normally be considered to be dependents, housing authorities should remember that such children may not be sufficiently mature to live independently of their parents, and there may be sound reasons for considering them to be dependent. The Secretary of State considers that it will be very rare that a 16 or 17 year old child who is living at home will not be considered to be dependent.

8.8 Dependent children need not necessarily be the applicant's own children, but could, for example, be related to the applicant or their partner, or be adopted or fostered by the applicant. There must, however, be some form of parent/child relationship.

8.9 Housing authorities may receive applications from a parent who is separated from their former spouse or partner. In some cases where parents separate, the court may make a residence order indicating with which parent the child normally resides. In such cases the child may be considered to reside with the parent named in the order, and would not normally be expected to reside with the other parent. However, in many cases the parents come to an agreement themselves as to how the child is cared for, and a court order will not be required.

8.10 Residence does not have to be full-time and a child can be considered to reside with either parent or with both parents. However, there must be some regularity to the arrangement for it to establish residence. Housing authorities should be mindful that where parents separate, there will generally be a presumption towards shared residence though this will not always be on the basis of an equal amount of time being spent living with both parents.

8.11 If the child is not currently residing with the applicant, the housing authority will need to decide whether, in the circumstances in which the applicant is homeless it would be reasonable for the child to do so. An agreement for joint residency between a child's parents, or a joint residence order by a court, will not automatically lead to a conclusion that it would be reasonable for the child to reside with the parent making the application, and housing authorities will need to consider each case individually. In doing so, housing authorities should take into account the specific needs and circumstances of the child, including whether suitable accommodation is available to them with their other parent.

8.12 Where the applicant's children are being looked after by a children's social services authority, whether subject to a care order or being accommodated under a voluntary agreement, and they are not currently living with the applicant, liaison with the social services authority will be essential. Joint consideration with social services will ensure that the best interests of the applicant and the children are served. This may, for example, enable a family to be reunited subject to suitable accommodation being available.

Domestic Abuse

8.13 Applicants have a priority need for accommodation if they are homeless as a result of being a victim of domestic abuse. Chapter 21 contains further guidance on assessing applicants who are homeless as a result of being a victim of domestic abuse.

Vulnerability

8.14 A person has a priority need for accommodation if they are vulnerable as a result of:

a. old age;

b. mental illness or learning disability or physical disability;

c. having been looked after, accommodated or fostered and is aged 21 or more;

d. having been a member of Her Majesty's regular naval, military or air forces;

e. having been in custody;

f. ceasing to occupy accommodation because of violence from another person or threats of violence from another person which are likely to be carried out-

or

g. any other special reason.

8.15 In the case of (a), (b) and (g) only, a person with whom a vulnerable person lives or might reasonably be expected to live also has a priority need for accommodation and can therefore make an application on behalf of themselves and that vulnerable person.

8.16 It is a matter of evaluative judgement whether the applicant's circumstances make them vulnerable. When determining whether an applicant in any of the categories set out in paragraph 8.14 is vulnerable, the housing authority should determine whether, if homeless, the applicant would be significantly more vulnerable than an ordinary person would be if they became homeless. The assessment must be a qualitative composite one taking into account all of the relevant facts and

circumstances, and involves a consideration of the impact of homelessness on the applicant when compared to an ordinary person if made homeless. The housing authority should consider whether the applicant would suffer or be at risk of suffering harm or detriment which the ordinary person would not suffer or be at risk of suffering, such that the harm or detriment would make a noticeable difference to their ability to deal with the consequences of homelessness.

8.17 When assessing an applicant's vulnerability, a housing authority may take into account the services and support available to them from a third party, including their family. This would involve considering the needs of the applicant, the level of support being provided to them, and whether with such support they would or would not be significantly more vulnerable than an ordinary person if made homeless. In order to reach a decision that a person is not vulnerable because of the support they receive the housing authority must be satisfied that the third party will provide the support on a consistent and predictable basis. In each case a housing authority should consider whether the applicant, even with support, would be vulnerable.

8.18 Housing authorities must be mindful of the Equality Act 2010 and their public sector equality duties towards people who have a protected characteristic. For further guidance on the Equality Act 2010 see Chapter 1. If the applicant has a disability (or another relevant protected characteristic) the authority should assess the extent of such disability and the likely effect of the disability, when taken together with any other features, on the applicant if and when homeless. They will then need to decide whether the impact of this makes the applicant significantly more vulnerable as a result.

8.19 Some of the factors which may be relevant to determining whether an applicant is vulnerable are set out below.

16 and 17 year olds

8.20 16 and 17 year old homeless applicants have a priority need for accommodation except those who are:

a. a relevant child; or,

b. a child in need who is owed a duty under section 20 of the Children Act 1989.

8.21 A relevant child is a child aged 16 or 17 who has been looked after by a local authority for at least 13 weeks since the age of 14 and has been looked after at some time while 16 or 17 and who is not currently being looked after (i.e. an 'eligible child' for the purposes of paragraph 19B of Schedule 2 to the Children Act 1989). In addition, a child is also a relevant child if they would have been looked after by the local authority as an eligible child but for the fact that on their 16th birthday they were detained through the criminal justice system, or in hospital, or if they returned home on family placement and that has broken down (see section 23A of the Children Act 1989, section 23A and regulation 3 of the Care Leavers (England) Regulations 2010).

8.22 The primary responsibility for a child in need who requires accommodation, including a 16 and 17 year old who is homeless lies with the relevant children's services authority. The Children Act 1989 (section 20) places a duty on children's services authorities to accommodate a child in need, and in almost all circumstances a homeless 16-17 year old would be a child in need.

8.23 However, there remain circumstances when the housing authority will have duties towards a homeless 16 and 17 year olds, including when the young person, having been fully informed of the implications, and being judged to have capacity to make that decision, declines to become looked after under the Children Act and instead applies for assistance under homelessness legislation. By definition these young people are nearing adulthood where a smooth and supported transition will be necessary to protect against the risk of homelessness reoccurring. As both children's services and housing authorities have duties towards this group it is essential that services are underpinned by written joint protocols which set out clear, practical arrangements for providing services that are centred on young people and their families and prevent young people from being passed over and back between housing and children's services authorities.

Old age

8.24 Old age alone is not sufficient for the applicant to be considered vulnerable. However, it may be that as a result of old age the applicant would be significantly more vulnerable than an ordinary person would be if homeless. Housing authorities should not use a fixed age beyond which vulnerability occurs automatically (or below which it can be ruled out); each case will need to be considered in the light of the individual circumstances.

Mental illness or learning disability or physical disability

8.25 Housing authorities should have regard to any advice from medical professionals, social services or current providers of care and support. In cases where there is doubt as to the extent of any vulnerability authorities may also consider seeking a clinical opinion. However, the final decision on the question of vulnerability will rest with the housing authority. In considering whether such applicants are vulnerable, authorities will need to take account of all relevant factors including:

a. the nature and extent of the illness and/or disability;

b. the relationship between the illness and/or disability and the individual's housing difficulties; and,

c. the relationship between the illness and/or disability and other factors such as drug/alcohol misuse, offending behaviour, challenging behaviour, age and personality disorder.

8.26 Assessment of vulnerability due to mental health problems will require cooperation between housing authorities, social services authorities and mental health agencies. Housing authorities should consider carrying out joint assessments or using a trained mental health practitioner as part of an assessment team. NHS mental health services provide help under the Care Programme Approach (CPA)

for eligible patients, including people with severe mental illness (including personality disorder), who also have problems with housing. People who are homeless on discharge from hospital following a period of treatment for mental illness are likely to be vulnerable. Effective arrangements for liaison between housing, social services and mental health services will be essential in such cases but authorities will also need to be sensitive to direct approaches from former patients who have been discharged and may be homeless.

8.27 Learning or physical disabilities or long-term or acute illnesses which give rise to vulnerability may be readily discernible, but advice from health or social services should be sought wherever necessary.

Having been looked after, accommodated or fostered and aged 21 or over

8.28 A person aged 21 or over who is vulnerable as a result of having been looked after, accommodated or fostered has a priority need (other than a person who is a 'relevant student'). The terms 'looked after, accommodated or fostered' are set out in Section 24(2) of the Children Act 1989 and this includes any person who has been:

a. looked after by a local authority (i.e. has been subject to a care order or accommodated under a voluntary agreement);

b. accommodated by or on behalf of a voluntary organisation;

c. accommodated in a private children's home;

d. accommodated for a consecutive period of at least three months:

   i. by any Local Health Board, Special Health Authority or by a local authority in the exercise of education functions; or,

   ii. in any care home or independent hospital or in any accommodation provided pursuant to arrangements made by the Secretary of State, the National Health Service Commissioning Board or a clinical commissioning group under the National Health Service Act 2006 or by a National Health Service trust or an NHS foundation trust, or by a local authority in Wales in the exercise of education functions; or, e. privately fostered.

8.29 A 'relevant student' means a care leaver under 25 to whom section 24B (3) of the Children Act 1989 applies, and who is in full-time further or higher education and whose term-time accommodation is not available during a vacation. Under section 24B(5), where a social services authority is satisfied that a person is someone to whom section 24B(3) applies and needs accommodation during a vacation they must provide accommodation or the means to enable it to be secured.

8.30 Housing authorities will need to make inquiries into an applicant's childhood history to establish whether they have been looked after, accommodated or fostered in any of these ways. If so, they will need to consider whether they are vulnerable as a result.

8.31 For further guidance on assessing vulnerability, and on providing assistance to applicants who are care leavers see Chapter 22.

Having been a member of the armed forces

8.32 A person who is vulnerable as a result of having been a member of Her Majesty's regular armed forces has a priority need for accommodation. Former members of the armed forces will include a person who was previously a member of the regular naval, military or air forces.

8.33 For further guidance on assessing vulnerability, and on providing assistance to applicants who are veterans see Chapter 24.

Having been in custody

8.34 A person who is vulnerable as a result of having served a custodial sentence, been committed for contempt of court or remanded in custody has a priority need for accommodation.

8.35 For further guidance on assessing vulnerability, and on providing assistance to applicants who have been in custody or detention see Chapter 23.

Having left accommodation because of violence

8.36 A person has a priority need if they are vulnerable as a result of having to leave accommodation because of violence (other than domestic abuse) from another person, or threats of violence from another person that are likely to be carried out. It will usually be apparent from the assessment of the reason for homelessness whether the applicant has had to leave accommodation because of violence or threats of violence. In cases involving violence, the safety of the applicant and ensuring confidentiality must be of paramount concern.

8.37 Note, in this context violence does not include violence which relates to domestic abuse. For further guidance on dealing with cases involving domestic abuse see Chapter 21.

Other special reason

8.38 Section 189(1)(c) provides that a person has a priority need for accommodation if they are vulnerable for any 'other special reason.' The legislation envisages that vulnerability can arise because of factors that are not expressly provided for in statute. Each application must be considered in the light of the facts and circumstances of the case. Moreover, other special reasons giving rise to vulnerability are not restricted to the physical or mental characteristics of a person. Where applicants have a need for support but have no family or friends

on whom they can depend they may be vulnerable as a result of another special reason.

8.39 Housing authorities must keep an open mind and should avoid blanket policies that assume that particular groups of applicants will, or will not, be vulnerable for any other special reason. Where a housing authority considers that an applicant may be vulnerable, it will be important to make an in-depth assessment of the circumstances of the case. Guidance on certain categories of applicants who may be vulnerable as a result of any other special reason is given below. The list below is not exhaustive and housing authorities must ensure that they give proper consideration to every application on the basis of the individual circumstances. In addition, housing authorities will need to be aware that an applicant may be considered vulnerable for any other special reason because of a combination of factors which taken alone may not necessarily lead to a decision that they are vulnerable (e.g. drug and alcohol problems, common mental health problems, a history of sleeping rough, no previous experience of managing a tenancy).

8.40 Any person who may reasonably be expected to die of a progressive illness within the next 6 months, or is in receipt of treatment that is reasonably considered to be palliative care, will almost certainly have a priority need. Effective arrangements for liaison and co-ordination of support and palliative care between housing, social services and health services will be essential in such cases. These services will want to take account of good practice guides and toolkits for providing effective co-ordinated care for such cases.

8.41 **Young people**: the 2002 Order makes specific provision for certain categories of young homeless people. However, there are many other young people who fall outside these categories who could be vulnerable if homeless. Most young people can expect a degree of support from families, friends or an institution (e.g. a college or university) with the practicalities and costs of finding, establishing, and managing a home for the first time. But some young people, particularly those who are forced to leave the parental home or who cannot remain there because they are being subjected to violence or sexual abuse, may lack this back-up network and be less able than others to establish and maintain a home for themselves. Moreover, a young person who is homeless without adequate financial resources to live independently may be at risk of abuse or exploitation.

8.42 **People fleeing harassment**: housing authorities should consider whether harassment falls under the general definition of domestic abuse. For further guidance see Chapter 21 and paragraphs 8.36-8.37 above. In some cases, however, severe harassment may fall short of actual violence or threats of violence likely to be carried out. Housing authorities should consider carefully whether applicants who have fled their home because of non-violent forms of harassment, for example, psychological or emotional or damage to property, are vulnerable as a result.

8.43 **Victims of trafficking and of modern slavery**: housing authorities should ensure that staff have an awareness of the possibility that applicants may be victims of trafficking or of modern slavery, and are able to assess whether or not

they are vulnerable as a result. For guidance on assessing vulnerability, and on providing assistance to applicants who are victims of trafficking or modern slavery see Chapter 25.

8.44 **COVID-19:** Housing authorities should carefully consider the vulnerability of applicants from COVID-19. The vulnerability of applicants who have an underlying health condition which increases the risk of morbidity or mortality from COVID-19, as recognised by the JCVI, should be considered in the context of the COVID-19 pandemic.

8.45 Housing authorities should also carefully consider whether people with a history of rough sleeping should be considered vulnerable in the context of COVID- 19, taking into account their age and underlying health conditions. Further guidance on clinical support for people with a history of rough sleeping can be found in the COVID-19 clinical homeless sector plan.

Chapter 9: Intentional homelessness

9.1 This chapter provides guidance on determining whether an applicant became homeless intentionally under section 191 of the 1996 Act.

9.2 The prevention and relief duties owed to applicants who are eligible for assistance and homeless, or threatened with homelessness, apply irrespective of whether or not they may be considered to be homeless intentionally.

9.3 Applicants who have a priority need, and whose homelessness has not been successfully relieved, are owed a lesser duty if they have become homeless intentionally than would be owed to them if they were homeless unintentionally. This reflects the general expectation that, wherever possible, people should take responsibility for their own accommodation needs and not behave in a way which might lead to the loss of their accommodation.

9.4 Where a housing authority finds an eligible applicant has a priority need but is homeless intentionally and the relief duty has come to an end, they have a duty to secure accommodation which is available to the applicant to provide reasonable opportunity for them to find their own accommodation. The authority must also provide advice and assistance in any attempts the applicant might make to secure accommodation. For further guidance on the accommodation duty owed to intentionally homeless applicants see Chapter 15.

9.5 It is for housing authorities to satisfy themselves in each individual case whether an applicant is homeless intentionally. Generally, it is not for applicants to 'prove their case.' The exception is where an applicant seeks to establish that, as a member of a household where another member has been found or is likely to be found to have caused intentional homelessness of the household, they did not acquiesce in the behaviour that led to homelessness. In such cases, acquiescence may be assumed by the housing authority in the absence of material which indicates to the contrary.

9.6 Housing authorities must not adopt general policies which seek to pre-define circumstances that do or do not amount to intentional homelessness. In each case, housing authorities must form a view in the light of all their inquiries about that particular case. Where the original loss of settled accommodation occurred some years earlier and the facts are unclear, it may not be possible for the housing authority to satisfy themselves that the applicant became homeless intentionally.

Definition of intentional homelessness

9.7 Section 191(1) provides that a person (other than an applicant who is exempt from this provision as set out in 9.9 - 9.11) becomes homeless intentionally if ALL of the following apply:

a. they deliberately do or fail to do anything in consequence of which they cease to occupy accommodation; and,

b. the accommodation is available for their occupation; and,

c. it would have been reasonable for them to continue to occupy the accommodation.

However, for this purpose, an act or omission made in good faith by someone who was unaware of any relevant fact must not be treated as deliberate (see paragraph 9.23).

9.8 Section 191(3) provides that a person must be treated as homeless intentionally if:

a. the person enters into an arrangement under which they are required to cease to occupy accommodation which it would have been reasonable for the person to continue to occupy; and,

b. the purpose of the arrangement is to enable the person to become entitled to assistance under Part 7; and,

c. there is no other good reason why the person is homeless.

Care Leavers

9.9 From 30th September 2026, the 1996 Act is amended to exempt certain care leavers from being considered intentionally homeless. Under Section 191(1ZA) of the 1996 Act, a care leaver cannot be found to have become intentionally homeless. For these purposes, a care leaver is a young person defined under the Children Act 1989 as:

- A relevant child within section 23A(2) of that Act; or
- A former relevant child within section 23C(1)of that Act, who is under the age of 25.

For either to apply, the young person must have been looked after by a local authority in England for a period or periods amounting to at least 13 weeks, which began after they reached the age of 14 and included at least one day after they reached the age of 16; and be no longer looked after.

9.10 In determining whether the exemption section191 (1ZA) applies to an applicant with care experience, the housing authority must consider if the cause of their current homelessness meets the criteria in 9.7 and 9.8 above and took place from 30th September 2026, and if at that point they were an exempt care leaver as described in 9.9. An exempt care leaver will not benefit from section 191(1ZA) if the cause of their current homelessness occurred before 30th September 2026; whereas a person who was an exempt care leaver on becoming homeless after the effective date will not be intentionally homeless.

9.11 The guidance set out in the rest of this chapter will not apply where the applicant is an exempt care leaver who benefits from section 191 (1ZA) as specified above. For further information please see Chapter 22.

Whose conduct results in intentional homelessness?

9.12 Every applicant is entitled to individual consideration of their application. This includes applicants where another member of their family or household has made, or is making, a separate application. It is the applicant who must deliberately have done or failed to do something which resulted in homelessness.

9.13 Where a housing authority has found an applicant to be homeless intentionally, nothing in the 1996 Act prevents another member of their household from making a separate application. Situations may arise where one or more members of a household found to be intentionally homeless were not responsible for the actions or omissions that led to the homelessness. For example, a person may have deliberately failed to pay the rent or defaulted on the mortgage payments, which resulted in homelessness against the wishes or without the knowledge of their partner.

9.14 However, where applicants were not directly responsible for the act or omission which led to their family or household becoming homeless, but they acquiesced in that behaviour, then they may be treated as having become homeless intentionally themselves. In considering whether an applicant has acquiesced in certain behaviour, the housing authority should take into account whether the applicant could reasonably be expected to have taken that position through a fear of actual or probable violence.

Cessation of occupation

9.15 For intentional homelessness to be established there must have been actual occupation of accommodation which has ceased. However, occupation need not necessarily involve continuous occupation at all times, provided the accommodation was at the disposal of the applicant and available for their occupation. The accommodation which has been lost can be outside the UK. Housing authorities are reminded that applicants cannot be considered to have become homeless intentionally because of failing to take up an offer of accommodation. However, an applicant whose refusal of a suitable offer of accommodation brought to an end the section 193(2) duty under which they were at the time accommodated, resulting in the loss of that accommodation, may be considered to be intentionally homeless.

Consequence of a deliberate act or omission

9.16 For homelessness to be intentional, the ending of occupation of the accommodation must be a consequence of a deliberate act or omission by the applicant. Having established that there was a deliberate act or omission, the housing authority will need to decide whether the loss of the applicant's home is

the reasonably likely result of that act or omission. This is a matter of cause and effect. An example would be where a person voluntarily gave up settled accommodation that it would have been reasonable for them to continue to occupy, moved into alternative accommodation of a temporary or unsettled nature and subsequently became homeless when required to leave the alternative accommodation. Housing authorities will, therefore, need to look back to the last period of settled accommodation and the reasons why the applicant left that accommodation, to determine whether the current incidence of homelessness is the reasonably likely result of a deliberate act or omission.

Ceasing to be intentionally homeless

9.17 Where a person becomes homeless intentionally, that condition may continue until the link between the causal act or omission and the intentional homelessness has been broken. It could be broken by an intervening event which, irrespective of any act or omission on the part of the applicant, would have itself led to their being homeless at the point at which the housing authority was carrying out inquiries into their application for assistance. This might be the case where, for example, an applicant gave up accommodation without sufficient good reason but at the later point at which they applied for assistance due to homelessness this accommodation would no longer have been available to them, or reasonable for them to occupy.

9.18 The causal link between a deliberate act or omission and intentional homelessness is more typically broken by a period in settled accommodation which follows the intentional homelessness. Whether accommodation is settled will depend on the circumstances of the case, with factors such as security of tenure and length of residence being relevant. Occupation of accommodation that was merely temporary rather than settled, for example, staying with friends on an insecure basis, may not be sufficient to break the link with the earlier intentional homelessness. However, a period in settled accommodation is not the only way in which a link with the earlier intentional homelessness may be broken. Some other event, such as the break-up of a marriage resulting in homelessness, may be sufficient.

Deliberate act or omission

9.19 For homelessness to be intentional, the act or omission that led to the loss of accommodation must have been deliberate, and applicants must always be given the opportunity to explain such behaviour. An act or omission should not generally be treated as deliberate, even where deliberately carried out, if it is forced upon the applicant through no fault of their own. Moreover, an act or omission made in good faith where someone is genuinely ignorant of a relevant fact must not be treated as deliberate (see paragraph 9.23).

9.20 Generally, an act or omission should not be considered deliberate where, for example:

a. the act or omission was non-payment of rent or mortgage costs which arose from financial difficulties which were beyond the applicant's control, or were the result of Housing Benefit or Universal Credit delays;

b. the housing authority has reason to believe the applicant is incapable of managing their affairs, for example, by reason of age, mental illness or disability;

c. the act or omission was the result of limited mental capacity; or a temporary aberration or aberrations caused by mental illness, frailty, or an assessed substance misuse problem;

d. the act or omission was made when the applicant was under duress;

e. imprudence or lack of foresight on the part of an applicant led to homelessness but the act or omission was in good faith.

9.21 An applicant's actions would not amount to intentional homelessness where they have lost their home, or were obliged to sell it, because of rent or mortgage arrears resulting from significant financial difficulties, and the applicant was genuinely unable to keep up the rent or mortgage payments even after claiming benefits, and no further financial help was available. Housing authorities should be alert to the impact of economic abuse and control and coercion on a victim of domestic abuse's ability to meet rent or mortgage payments.

9.22 Where an applicant has lost a former home due to rent arrears, the reasons why the arrears accrued should be fully explored, including examining the applicant's ability to pay the housing costs at the time the commitment was taken on. Similarly, in cases which involve mortgagors, housing authorities will need to look at the reasons for mortgage arrears together with the applicant's ability to pay the mortgage commitment when it was taken on, given the applicant's financial circumstances at the time.

9.23 Examples of acts or omissions which may be regarded as deliberate (unless any of the circumstances set out in paragraph 9.17 apply) include the following, where someone:

a. chooses to sell their home in circumstances where they are under no risk of losing it;

b. has lost their home because of willful and persistent refusal to pay rent or mortgage payments;

c. could be said to have significantly neglected their affairs having disregarded sound advice from qualified people;

d. voluntarily surrenders adequate accommodation in this country or abroad which it would have been reasonable for them to continue to occupy;

e. is evicted because of their anti-social behaviour, nuisance to neighbours or harassment;

f. is evicted because of violence or threats of violence or abuse by them towards another person;

g. leaves a job with tied accommodation and the circumstances indicate that it would have been reasonable for them to continue in the employment and reasonable to continue to occupy the accommodation.

Available for occupation

9.24 For homelessness to be intentional the accommodation must have been available for the applicant, their household and any other person reasonably expected to live with them. For further guidance on availability for occupation see Chapter 6.

Reasonable to continue to occupy the accommodation

9.25 An applicant cannot be treated as intentionally homeless unless it would have been reasonable for them to have continued to occupy the accommodation. For further guidance on reasonable to continue to occupy see Chapter 6. It will be necessary for the housing authority to give careful consideration to the circumstances of the applicant and the household, in each case, and with particular care in cases where violence and abuse has been alleged. For further guidance on domestic abuse see Chapter 21.

Act or omissions in good faith

9.26 Acts or omissions made by the applicant in good faith where they were genuinely unaware of a relevant fact must not be regarded as deliberate. Provided that the applicant has acted in good faith, there is no requirement that ignorance of the relevant fact be reasonable.

9.27 A general example of an act made in good faith would be a situation where someone gave up possession of accommodation in the belief that they had no legal right to continue to occupy the accommodation and, therefore, it would not be reasonable for them to continue to occupy it. This could apply where someone leaves rented accommodation in the private sector having received a valid notice to quit or notice that the assured shorthold tenancy has come to an end and the landlord requires possession of the property, and the former tenant was genuinely unaware that they had a right to remain until the court granted an order for possession and a warrant or writ for possession to enforce it.

9.28 Where there was dishonesty there could be no question of an act or omission having been made in good faith.

9.29 Other examples of acts or omissions that could be made in good faith might include situations where:

a. a person gets into rent arrears, being unaware that they may be entitled to Housing Benefit, Universal Credit or other social security benefits;

b. an owner-occupier faced with foreclosure or possession proceedings to which there is no defence, sells before the mortgagee recovers possession through the courts or surrenders the property to the lender; or,

c. a tenant, faced with possession proceedings to which there would be no defence, and where the granting of a possession order would be mandatory, surrenders the property to the landlord.

9.30 In (c) although the housing authority may consider that it would have been reasonable for the tenant to continue to occupy the accommodation, the act should not be regarded as deliberate if the tenant made the decision to leave the accommodation in ignorance of relevant facts.

Applicant enters into an arrangement

9.31 Housing authorities will need to be alert to the possibility of collusion by which a person may claim that they are obliged to leave available accommodation that would have been reasonable for them to continue to occupy in order to take advantage of the homelessness legislation. Collusion is not confined to arrangements with friends or relatives but can also occur between landlords and tenants. Housing authorities, while relying on experience, nonetheless need to be satisfied that collusion exists, and must not rely on hearsay or unfounded suspicions in finding that an applicant became intentionally homeless under section 191(3).

9.32 For collusion to amount to intentional homelessness, section 191(3) specifies that there should be no other good reason for the applicant's homelessness. Examples of other good reasons include overcrowding or an obvious breakdown in relations between the applicant and their host or landlord. In some cases involving collusion the applicant may not actually be homeless, if there is no genuine need for the applicant to leave the accommodation. For further guidance on applicants asked to leave by family or friends see Chapter 6.

9.33 Specific guidance relating to intentional homelessness can also be found in the following chapters:

Chapter 21: domestic abuse;

Chapter 22: young people, including those with care experience;

Chapter 23: people with an offending history;

Chapter 24: former members of the armed forces.

Chapter 10: Local connection and referrals to another housing authority

10.1 This chapter provides guidance on the provisions relating to an applicant's 'local connection' with an area and explains the conditions and procedures for referring an applicant to another housing authority. The chapter includes how local connection is assessed, particular arrangements that apply for certain groups such as care leavers and former asylum seekers, the process and conditions for referrals between authorities, cross-border referrals and dealing with disputes.

Local Authorities Agreement

10.2 Local authority bodies have together agreed guidelines for local authorities on procedures for referral between them, and for resolving disputes that arise when housing authorities are unable to agree whether conditions for a referral from one authority to another are met. Although these procedures have been adopted by local authority organisations in England, Scotland and Wales, and are now widely used, housing authorities are reminded that they should consider each case individually on its own particular facts.

Assessing local connection

10.3 When a housing authority makes inquiries to determine whether an applicant is eligible for assistance and owed a duty under Part 7, it may also make inquiries under section 184(2) to establish an applicant's local connection.

10.4 Section 199(1) provides that a person has a local connection with the district of a housing authority if they have a connection with it because:

a. they are, or were in the past, normally resident there, and that residence was of their own choice; or,

b. they are employed there; or,

c. they have family associations living there; or,

d. of any special circumstances.

10.5 For the purposes of (a), above, 'normal residence' is to be understood as meaning 'the place where at the relevant time the person in fact resides.' Residence in temporary accommodation provided by a housing authority can constitute normal residence of choice and can contribute towards a local connection.

10.6 In the case of a person who is street homeless or insecurely accommodated ('sofa surfing') the housing authority will need to carry out a different type of inquiry to be satisfied as to their 'normal residence' than would be required for an applicant who has become homeless from more settled accommodation. If an

applicant has no settled accommodation elsewhere, and from inquiries the authority is satisfied that they do in fact reside in the district, then there will be normal residence for the purposes of the 1996 Act.

10.7 The Local Authorities Agreement suggests that a working definition of normal residence sufficient to establish a local connection should be residence for at least 6 months in an area during the previous 12 months, or for three years during the previous five year period.

10.8 With regard to (b) the applicant should actually work in the district: it would not be sufficient that their employers' head office was located there.

10.9 For the purposes of (c), where the applicant raises family associations, this may extend beyond partners, parents, adult children or siblings. They may include associations with other family members such as step-parents, grandparents, grandchildren, aunts or uncles provided there are sufficiently close links in the form of frequent contact, commitment or dependency. Family associations should be determined with regard to the fact-specific circumstances of the individual case. For example, the actual closeness of the family association may count for more than the degree of blood relation. A housing authority should not identify a local connection through family associations with an area other than the one where the applicant positively wants to live.

10.10 The Local Authorities Agreement recommends that in order to give rise to a local connection, the family members relied upon as family associations should have been resident in the district for a period of at least five years at the date of application from homelessness assistance. Housing authorities should remain cautious in applying this guideline to every case. For example, in cases of refugees or other recent arrivals to the UK, a housing authority should bear in mind that the relatives may not have had five years in which to build up a residence period in any district in the UK.

10.11 With regard to (d), special circumstances might include the need to be near special medical or support services which are available only in a particular district.

10.12 Decisions about the application of (a) to (d) must be based on the facts at the date of the decision (or review of the decision), not the date of the application.

10.13 The test regarding local connection, as set out in section 199(1) should be applied, and the additional provisions for care leavers (see paragraph 10.17) and asylum seekers (see paragraph 10.23) where relevant, in order to establish whether the applicant has the required local connection. The fact that an applicant may satisfy one of these grounds will not necessarily mean that they have been able to establish a local connection.

10.14 The overriding consideration should always be whether the applicant has a connection 'in real terms' with an area and the housing authority must consider

the applicant's individual circumstances, particularly any exceptional circumstances, before reaching a decision.

10.15 Housing authorities are not generally required to make any inquiries as to whether an applicant has a local connection with an area. However, by virtue of section 11 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, housing authorities will need to consider local connection in cases where the applicant is a former asylum seeker:

a. who was provided with accommodation in Scotland under section 95 of the Immigration and Asylum Act 1999; and,

b. whose accommodation was not provided in an accommodation centre by virtue of section 22 of the Nationality, Immigration and Asylum Act 2002.

10.16 In such cases, by virtue of section 11(2)(d) and (3) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, local connection to a district in England, Wales or Scotland will be relevant to what duty is owed under section 193. (See paragraphs 10.23 – 10.29 below).

Care leavers

10.17 Section 199(8) to (11) makes specific provisions relating to local connection for care leavers.

10.18 A young person owed leaving care duties under section 23C of the Children Act 1989 will have a local connection to the area of the children services authority that owes them the duties. If the children services authority is a county council and not a housing authority, the young person will have a local connection with every housing authority district falling within the area of the children services authority. This applies whilst the care leaver is owed section 23C duties, which will be until they reach the age of 21, or beyond their 21st birthday if they continue in the education or training programme specified in their pathway plan.

10.19 Where a care leaver is aged under 21 and normally lives in a different area to that of a local authority that owes them leaving care duties, and has done for at least 2 years including some time before they turned 16, the young person will also have a local connection in that area.

10.20 For further guidance on assessments and provision of services for Care Leavers see Chapter 22.

Ex-service personnel

10.21 Section 315 of the Housing and Regeneration Act 2008 amended the local connection test to enable armed forces personnel to establish a local connection in an area through residing there by choice, or being employed there, in the same way as a civilian. For further guidance on former members of the armed forces see Chapter 24.

Ex-prisoners and detainees under the Mental Health Act 1983

10.22 Detention in prison (whether convicted or not) does not establish residency of choice in the district the prison is in, and so will not create a local connection with that district. The same is true of those detained under the *Mental Health Act 1983.* For further guidance on people with an offending history see Chapter 23.

Former asylum seekers

10.23 Sections 199(6) provides that a person has a local connection with the district of a housing authority if they were (at any time) provided with accommodation there under section 95 of the *Immigration and Asylum Act 1999* (section 95 accommodation).

10.24 Under section 199(7), however, a person does not have a local connection by virtue of section 199(6):

a. if they have been subsequently provided with section 95 accommodation in a different area. Where a former asylum seeker has been provided with section 95 accommodation in more than one area, the local connection is with the area where accommodation was last provided; or,

b. if they have been provided with section 95 accommodation in an accommodation centre in the district by virtue of section 22 of the *Nationality, Immigration and Asylum Act 2002*.

10.25 A local connection with a district by virtue of section 199(6) does not override a local connection by virtue of section 199(1). Thus, a former asylum seeker who has a local connection with a district because they were provided with accommodation there under section 95 may also have a local connection elsewhere for some other reason, for example, because of employment or family associations.

Former asylum seekers provided with section 95 accommodation in Scotland

10.26 Under Scottish legislation, a person does not establish a local connection with a district in Scotland if they are resident there in section 95 accommodation. Consequently, if such a person made a homelessness application to a housing authority in England, and did not have a local connection with the district of that authority, the fact that they had been provided with section 95 accommodation in Scotland would not establish conditions for referral to the relevant local authority in Scotland.

10.27 Sections 11(2) and (3) of the *Asylum and Immigration (Treatment of Claimants, etc.) Act 2004* provides that where a housing authority in England or Wales is satisfied that an applicant is eligible for assistance, unintentionally homeless and in priority need and:

a. the applicant has been provided with section 95 accommodation in Scotland at any time;

b. the section 95 accommodation was not provided in an accommodation centre by virtue of section 22 of the *Nationality, Immigration and Asylum Act 2002*;

c. the applicant does not have a local connection anywhere in England and Wales (within the meaning of section 199 of the 1996 Act); and,

d. the applicant does not have a local connection anywhere in Scotland (within the meaning of section 27 of the *Housing (Scotland) Act 1987)*; then the duty to the applicant under section 193 (the main housing duty) shall not apply.

10.28 However, the authority:

a. may secure that accommodation is available for occupation by the applicant for a period giving them a reasonable opportunity of securing accommodation for their occupation; and,

b. may provide the applicant (or secure that they are provided with) advice and assistance in any attempts they may make to secure accommodation for their occupation.

10.29 When dealing with an applicant in these circumstances, housing authorities will need to take into account the wishes of the applicant but should consider providing such advice and assistance as would enable the applicant to make an application for housing to the Scottish authority in the district where the section 95 accommodation was last provided, or to another Scottish authority of the applicant's choice. If they were unintentionally homeless and in priority need, it would be open to them to apply to any Scottish housing authority and they would be owed a main housing duty.

Referrals to another housing authority

10.30 If a housing authority's inquires under section 184(2) determine that an applicant has a local connection with the district of another housing authority in England, Wales or Scotland, section 198 allows a housing authority ('the notifying authority') to refer a case to another housing authority ('the notified authority') at the point of the relief duty or main housing duty. Before making a referral the notifying authority must decide if the conditions for referral are met (see 10.32). Referrals cannot be made to Welsh or Scottish authorities where the section 189B relief duty is owed.

10.31 The Secretary of State recommends that the notified authority should respond to a referral within 10 working days.

10.32 Referrals are discretionary only: housing authorities are not required to refer applicants to other authorities. Housing authorities may have a policy

about how they exercise their discretion to refer a case. This must not, however, extend to deciding in advance that in all cases where there is a local connection to another district the case should be referred.

10.33 There may be instances where an applicant has a local connection to the district where they applied but the housing authority considers that there is a stronger local connection elsewhere. In such cases, a housing authority can not decide to transfer responsibility to another housing authority; however, they will still be able to seek assistance from the other housing authority in securing accommodation, under section 213. For further guidance on securing accommodation see Chapter 16.

10.34 Where a person has a local connection with the districts of more than one other housing authority, the notifying housing authority should take account of the applicant's preference in deciding which housing authority to notify.

10.35 If neither an applicant, nor any person who might reasonably be expected to live with them, has a local connection with any district in Great Britain, the duty to secure accommodation or help to secure accommodation will rest with the housing authority that has received the application.

Referrals to another housing authority in England at the relief stage

10.36 Referrals cannot be made to Welsh or Scottish authorities at the relief stage - the English authority the applicant has applied to will be subject to the relief duty, if one is owed.

10.37 Section 198(A1) enables a housing authority to refer applicants who do not have a local connection to their district to another housing authority in England where they do have such a connection. Before making a referral, the notifying authority must be satisfied that the applicant is homeless and eligible for assistance and therefore owed the (section 189B) relief duty and that the conditions for referral are met (see paragraph 10.51).

10.38 Section 189B sets out the initial duties owed to all eligible people who are homeless, that is the relief duty, **unless** the authority refers the application to another housing authority. Section 199A(b) states that the housing authority is not subject to the relief duty at the point that they have notified the applicant that they intend to refer or have referred their case to another housing authority. It follows that a housing authority will owe the relief duty until such time as the applicant has been issued with this notification. If the authority believes that the applicant has no local connection and **may** have a connection elsewhere, they should take reasonable steps to try and relieve the applicant's homelessness until they issue the first notification as outlined in 10.39 below.

10.39 When the notifying authority intends to refer or have referred a case to another housing authority, there are two points at which applicants must be notified:

a. when the notifying authority has decided that the conditions for referral are met and intend to notify, or have notified, another local authority of that opinion;

b. when, following referral, it has been decided that the conditions for referral are or are not met. The notification must provide notice of the decision and the reasons for it.

10.40 From the date that the first notice is issued the authority will not be subject to the relief duty and will cease to be subject to the section 188 (interim accommodation) duty. However if they have reason to believe the applicant may be in priority need they will have a section 199A (2) duty to provide interim accommodation to the applicant whilst a decision is made on whether the conditions for referral are met.

10.41 From the date the second notice (b) is issued to the applicant, if it is decided that the conditions for referral are met, the applicant is to be treated as having made an application to the notified authority. At this point, the notifying authority's duties under Part 7 of the 1996 Act come to an end.

10.42 If the notifying authority has made a decision as to whether the applicant is eligible for assistance, is homeless or became homeless intentionally, the notified authority may only come to a different decision if they are satisfied that the applicants circumstances have changed; or further information has come to light since the notifying authority made their decision, and that the changes or information warrant a different decision.

10.43 The notifying authority must give the notified authority a copy of the applicant's section 189A(3) assessment and any revisions made to it, and should also (with the applicant's consent) provide any personalised housing plan that has been agreed with the applicant which remains relevant. The notifying authority should provide this documentation as quickly as possible.

10.44 If it is decided that the conditions for referral are not met the applicant's case will remain with the notifying authority and they will be subject to the relief duty under section 189(B)(2). The 56 day period of the relief duty will start from the date of the second notification.

Referrals to another housing authority in England, Wales or Scotland at the end of the relief duty

10.45 Section 198(1) enables a housing authority to refer an applicant who is owed the main housing duty but does not have a local connection to their district, to another housing authority in England, Wales or Scotland if it considers that the conditions for referral are met. Before making a referral, it is the responsibility of the notifying authority to determine that the applicant is unintentionally homeless, eligible for assistance and has a priority need; and is owed the main housing duty.

10.46 The notifying authority cannot issue a notice of referral under section 198(1) until their duties to the applicant under section 189B(2), the relief duty, have come to an end.

10.47 As set out in paragraph 10.38 above when the notifying authority intends to refer a case to another housing authority, there are two notification points. At the point that the housing authority issues the first notice which notifies the applicant that they have or will be referring their case to another housing authority the notifying authority will cease to be subject the section 188 duty to provide interim accommodation from the date of the notice and will not be subject to any duty under section 193. However, they will be subject to a section 200(1) duty to provide interim accommodation until a decision is reached on whether the conditions for referral are met.

10.48 From the date the second notice (b) is issued to the applicant, (which sets out the decision on whether the conditions for referral have been met), if it is decided that the conditions for referral are met, the notifying authority's duty to provide accommodation under section 200(1) comes to an end and the notified authority will be subject to the main housing duty.

10.49 If it is decided that the conditions for referral are not met the applicant's case will remain with the notifying authority and they will be subject to the main housing duty under section 193.

10.50 A notified authority which disagrees on a finding as to the application of the main housing duty (section 193) to the applicant must challenge the notifying authority's finding (for example as to intentionality) by way of judicial review.

Conditions for referral

10.51 Sections 198(2)(2ZA) and (4) describe the conditions which must be satisfied before a referral may be made. A notifying authority may only refer an applicant to whom the relief duty or main housing duty applies to another housing authority if all of the following are met:

a. neither the applicant nor any person who might reasonably be expected to live with them has a local connection with its district; and,

b. the applicant or a person who might reasonably be expected to live with them has a local connection with the district of the authority to be notified; and,

c. none of them will be at risk of domestic abuse or other violence, or threat of domestic abuse or other violence which is likely to be carried out, in the district of the authority to be notified.

Or:

a. the application is made within two years of the applicant's acceptance of a private rented sector offer from the other authority under section 193(7AA); and,

b. neither the applicant or any person who might reasonably be expected to live with them will be at risk of domestic abuse or other violence, or threat of domestic abuse or other violence which is likely to be carried out, in the district of the authority to be notified.

For further guidance on referrals to another housing authority in this circumstance see Chapter 18 on re-applications.

Or:

a. the applicant was placed in the authority's district by another authority as a result of a previous homelessness application to the other authority; and,

b. the fresh application for assistance has been made within a prescribed period of the first application.

The *Allocation of Housing and Homelessness (Miscellaneous Provisions) (England) Regulations 2006* (SI 2006 No. 2527) set out that the 'prescribed period' is the total of five years plus the period between the date of the previous application and the date the applicant was first placed in accommodation in the district of the authority to whom the application is now made.

Risk of violence

10.52 A housing authority cannot refer an applicant to another housing authority if they or anyone who might reasonably be expected to reside with them would be at risk of domestic abuse or other violence. The housing authority is under a positive duty to enquire whether the applicant would be at such a risk and, if they would, should not assume that the applicant will take steps to deal with the threat.

10.53 Section 198(3) defines violence as violence from another person or threats of violence from another person which are likely to be carried out. This is the same definition as appears in section 177 in relation to whether it is reasonable to continue to occupy accommodation and the circumstances to be considered as to whether a person runs a risk of violence are the same.

10.54 Housing authorities should be alert to the deliberate distinction which is made in section 198(3) between actual violence and threatened violence. A high standard of proof of actual violence in the past should not be imposed. The threshold is that there must be:

a. no risk of domestic abuse (actual or threatened) in the other district; and,

b. no risk of other violence (actual or threatened) in the other district.

For further guidance on cases involving domestic abuse see Chapter 21.

Cross-border referrals

10.55 Paragraph 10.30 above sets out the circumstances under which a local housing authority can refer a case to another housing authority in Wales or Scotland, and the conditions for referral apply to all referrals. Following a referral, the Local Authorities Agreement sets out that the legislation relevant to the location of the notified authority should be applied when reaching an agreement on whether the conditions for referral are met. There are no arrangements in place to enable referrals to be made between England and Northern Ireland or the Republic of Ireland.

Applicants' rights to request a review

10.56 Applicants have the right to request a review of various decisions relating to local connection and referrals. Under section 202(1)(c), an applicant is able to request a review of a housing authority's decision to notify another housing authority that the conditions for referral are met where the main housing duty is owed (notice a – see 10.39). Applicants cannot request a review of the equivalent section 198(A1) decision at the relief stage. Applicants have a right to request a review of the decision on whether the conditions for referral are met at both the stage of the relief duty or main housing duty under section 202(1)(e) (notice b – see 10.39). For further guidance on reviews see Chapter 19.

10.57 The notifying authority's interim duty to accommodate under section 188, 199A(2) or 200(1) ends regardless of whether the applicant requests a review of a decision that the conditions for referral are met. However, where the applicant does request a review the notifying authority has powers under section 199A (6) and section 200(5) to secure that accommodation is available pending the review decision. For further guidance on powers to secure accommodation see Chapter 15.

10.58 There is no right to request a review of a decision *not* to refer a case, although a failure by a housing authority to consider whether it has the discretion to refer an applicant may be amenable to challenge though judicial review. The same is true of an unreasonable use of the discretion. For further guidance on reviews see Chapter 19.

Disputes

10.59 The question of whether the conditions for referral are met in a particular case at the point of the relief duty or the main housing duty should be decided by agreement between the housing authorities concerned (section 198(5)).

10.60 If they cannot agree, the decision should be made in accordance with such arrangements as may be directed by order of the Secretary of State (section 198(5)). The *Homelessness (Decisions on Referrals) Order 1998* (SI 1998 No. 1578) sets out that where a decision cannot be reached by agreement between

the notifying authority and the notified authority, the question shall be decided by a person appointed by those authorities.

10.61 The Order directs that the arrangements to be followed in such a dispute are the arrangements agreed between the local authority associations (i.e. the Local Government Association (LGA), the Convention of Scottish Local Authorities, the Welsh Local Government Association and London Councils). The LGA has issued guidelines for housing authorities on invoking the disputes procedure.

10.62 If the authorities are unable to appoint a person to make this decision within 21 days from the date on which the notified authorities receives a notification, sections (2) to (4) of the Schedule to the Order set out the arrangements for appointing a person. These sections **only apply** where a housing authority in England, Wales or Scotland seek to refer a homelessness case under section 198(1) to another housing authority in England or Wales, at the point of the main housing duty and they are unable to agree to appoint a person to decide whether the conditions for referral are met. They **do not apply** where a housing authority in England seek to refer a homelessness case to another authority in England under section 198(A1) at the point of the relief duty.

10.63 The Secretary of State has issued the below guidance to set out the arrangements housing authorities should take in the event of them being unable to agree on a person to be appointed to make the decision on whether the conditions for referral of a case are met under section 198(A1) at the point of the relief duty. Housing authorities are strongly recommended to follow this guidance:

a. if the notified and notifying authority are unable to appoint a person to make a decision on their behalf on the referral of a case within 21 days from the day on which the notified authority received a notification under section 198(A1), They should jointly request the Chair of the LGA or their nominee ('the proper officer') to appoint a person to make this decision;

b. the Secretary of State recommends that the authorities request that the LGA appoint a person from the panel of persons they have established to decide the question of whether the conditions for a referral of a case are satisfied. The LGA are required to establish this panel under the *Homelessness (Decisions on Referrals) Order 1998* (SI 1998 No. 1578) to appoint persons to make decisions on referrals of cases under section 198(1). Housing authorities are recommended to utilise this existing procedure;

c. if within a period of six weeks from the day on which the notified authority received a notification under section 198(A1), a person still has not been appointed, the notifying authority is recommended to request the proper officer to appoint a person from the panel specified above.

10.64 Broadly speaking, both section (2) to (4) of the Schedule to the order and the guidance above provide that in the event of two housing authorities being unable to agree on a person to be appointed to make the decision for them they should

agree to make a joint request to the LGA to appoint someone. If unable to agree on that the notifying housing authority must make such a request of the LGA. In all cases relating to notifications under section 198(1) the appointed person must be drawn from a panel established by the LGA for this purpose. It is recommended that for cases relating to notification under section 198(A1) the housing authorities request that the appointed person is drawn from this panel.

10.65 Section 5, 6 and 7 of the *Homelessness (Decisions on Referrals) Order 1998* sets out the procedure to be followed by the appointed person when making their decision and the arrangements for meeting associated costs. These provisions apply regardless of the means by which a person has been appointed. The appointed person must invite written representations from the notifying and notified authority and shall notify their decision and their reasons for it, in writing to the notifying authority and the notified authority. The notifying and notified authority must pay their own costs incurred in connection with these arrangements.

10.66 The *Homelessness (Decisions on Referrals) (Scotland) Order 1998*, (SI 1998 No.1603) applies under the Scottish homelessness legislation. The arrangements in the latter apply in cases where a housing authority in England, Wales or Scotland refers a homelessness case to a housing authority in Scotland, and they are unable to agree whether the conditions for referral are met.

10.67 Where an English or Welsh housing authority seek to refer a case to a Scottish housing authority, a request to the local authority association to appoint an arbitrator should be made to the Convention of Scottish Local Authorities.

Chapter 11: Assessments and personalised plans

11.1 This chapter provides guidance on the (section 189A of the 1996 Act) assessments that housing authorities must carry out to determine the duties owed to a person applying for assistance, and the needs and circumstances of those applicants who are eligible for assistance and homeless or threatened with homelessness. It includes guidance on personalised plans and the reasonable steps applicants and housing authorities may take to prevent or relieve homelessness.

Overview: assessments and personalised plans

11.2 The section 189A duties to assess an applicant's case and develop a personalised plan provide a framework for housing authorities and applicants to work together to identify appropriate actions to prevent or relieve the applicant's homelessness. In performing these duties, the Secretary of State considers that housing authorities should adopt a positive and collaborative approach toward applicants, taking account of their particular needs and making all reasonable efforts to engage their cooperation. Personalised plans are more frequently referred to as 'personalised housing plans', and so this term is adopted throughout this guidance.

Initial assessments

11.3 Every person applying for assistance from a housing authority stating that they are or are going to be homeless will require an initial interview. If there is reason to believe that they may be homeless or threatened with homelessness within 56 days the housing authority must carry out an assessment to determine if this is the case, and whether they are eligible for assistance. If the applicant is not eligible for assistance or if the authority is satisfied that they are not homeless or threatened with homelessness within 56 days, they must be given a written section 184 notification of the decision reached. For further guidance on eligibility see Chapter 7 and for further guidance on notifications see Chapter 18.

11.4 In some circumstances it will be possible to determine that an applicant is not threatened with homelessness at first approach, but in most cases further enquires will need to be carried out to find out more about their housing circumstances before being satisfied that they are not threatened with homelessness within 56 days. If the applicant believes they are threatened with homelessness and there is reason to believe that this is the case then further investigations will be required.

11.5 Guidance on whether a person is homeless or threatened with homelessness is provided in Chapter 6. It should be noted that applicants who have been served a valid notice to end an assured tenancy of their only available home, which expires within 56 days, are threatened with homelessness.

11.6 Housing authorities are encouraged to take a flexible approach toward applications for assistance where there is an evidenced risk of homelessness, which might not necessarily result in homelessness within 56 days. Rather than advise the applicant to return when homelessness is more imminent, the housing authority may wish to accept a prevention duty and begin to take reasonable steps to prevent homelessness. However, where there is no risk of homelessness in the foreseeable future the housing authority should offer advice and assistance to the applicant as appropriate.

Assessment of circumstances and needs (section 189A (2))

11.7 Applicants who are eligible and homeless or threatened with homelessness must have an assessment of their case, which includes assessing:

a. the circumstances that have caused them to be homeless or threatened with homelessness;

b. their housing needs, and what accommodation would be suitable for them, their household and anybody who might reasonably be expected to live with them; and,

c. the support that would be necessary for them, and anybody who will be living with them, to have and sustain suitable accommodation.

11.8 When **assessing the circumstances** leading to a threat of homelessness housing authorities will need applicants to provide all relevant information to inform their assessment. This will usually include enquiring into their accommodation history at least as far back as their last settled address, and the events that led to them being threatened with or becoming homeless.

11.9 Applicants should be encouraged to share information without fear that this will reduce their chances of receiving support, and questions should be asked in a sensitive way and with an awareness that the applicant may be reluctant to disclose personal details if they lack confidence that their circumstances will be understood and considered sympathetically. Housing authorities should ensure staff have sufficient skills and training to conduct assessments of applicants who may find it difficult to disclose their circumstances, including people at risk of domestic abuse, violence or hate crime.

11.10 When assessing the **housing needs** of an applicant housing authorities will need to consider the individual members of the household, and all relevant needs. This should include an assessment of the size and type of accommodation required, any requirements to meet the needs of a person who is disabled or has specific medical needs, and the location of housing that is required. The applicant's wishes and preferences should also be considered and recorded within the assessment; whether or not the housing authority believes there is a reasonable prospect of accommodation being available that will meet those wishes and preferences.

11.11 An assessment of the applicant's and household member's **support needs** should be holistic and comprehensive, and not limited to those needs which are most apparent or have been notified to the housing authority by a referral agency. Housing authorities will wish to adopt assessment tools that enable staff to tease out particular aspects of need, without appearing to take a 'checklist' approach using a list of possible needs. Some applicants may be reluctant to disclose their needs and will need sensitive encouragement to do so, with an assurance that the purpose of the assessment is to identify how the housing authority can best assist them to prevent or relieve homelessness.

11.12 Some applicants will identify care and support needs that cannot be met by the housing authority; or which require health or social care services to be provided alongside help to secure accommodation. Housing authorities should be mindful of duties under the Care Act 2014 including those relating to assessment and adult safeguarding; and the use of Care Act powers to meet urgent care and support needs where an assessment has not been completed.

Arrangements for carrying out assessments

11.13 Housing authorities should provide assessment services that are flexible to the needs of applicants. The Secretary of State considers an individual and interactive process will be required to fully and effectively assess circumstances and needs. Whilst advice and information services could be provided via an online process, housing authorities could not rely solely on such means to complete assessments into individual circumstances and needs for people who are homeless or threatened with homelessness within 56 days.

11.14 In most circumstances assessments will require at least one face to face interview. However, where that is not possible or does not meet the applicant's needs, assessments could be completed on the telephone or internet or with the assistance of a partner agency. For example, an applicant who is in prison, hospital or in other circumstances where they cannot attend an interview, could have an assessment completed through a video link or with the help of a partner agency able to complete an assessment form, provide information and assist with communication where needed.

11.15 Some applicants may find it more convenient to complete an assessment through telephone or internet interviews, but there should be an opportunity for the assessment to be completed through a face to face meeting where the applicant's needs indicate this is necessary, or if the applicant requests it.

11.16 Assessments should be specific to the applicant and the results of the assessment must be notified in writing to them.

Responding to referrals for assistance

11.17 Housing authorities will receive referrals of customers from other service providers, both statutory and non-statutory, including public authorities with a statutory duty to refer people who are homeless or threatened with

homelessness. Some referring agencies will be better equipped than others to establish the threat of homelessness, or to conduct assessments of needs, and housing authorities will need to supplement the information provided within a referral with their own assessment and enquiries. For further guidance on duty to refer see Chapter 4.

Reasonable steps

11.18 Housing authorities should work alongside applicants to identify practical and reasonable steps for the housing authority and the applicant to take to help the applicant retain or secure suitable accommodation. These steps should be tailored to the household, and follow from the findings of the assessment, and must be provided to the applicant in writing as their personalised housing plan.

11.19 Housing authorities will wish to develop resources and tools that can be used regularly to address common issues, whilst also ensuring genuine personalisation in response to the wide range of circumstances and needs experienced by applicants. The Secretary of State expects this to result in significant variation in the staff time and other resources invested with each applicant in accordance with the nature and complexity of the issues they face.

11.20 Personalised housing plans should be realistic, taking account of local housing markets and the availability of relevant support services, as well as the applicant's individual needs and wishes. For example, a plan which limited the search for accommodation to a small geographic area where the applicant would like to live would be unlikely to be reasonable if there was little prospect of finding housing there that they could afford. The plan might instead enable the applicant to review accommodation prices in their preferred areas as well as extending their home search to more affordable areas and property types. In their interactions with applicants, housing authorities are encouraged to provide sufficient information and advice to encourage informed and realistic choices to be identified and agreed for inclusion in the plan.

11.21 Through their assessments, housing authorities might identify support needs that cannot be easily met from existing service provision. Improvements in assessments and data capture will enable authorities to build up better information to assess needs and inform commissioning arrangements for the future. The Secretary of State recognises that 'reasonable steps' will vary between housing authority areas, and will be affected by housing markets and availability of services to support vulnerable people. However, every authority should engage in efforts to identify and measure needs and prioritise funding for the provision of services, as well as the development of partnerships, appropriately.

11.22 It would not be reasonable to agree steps for an applicant that were reliant on them engaging with a service provision that is not currently available in the district or which is unlikely to be offered to them. If the applicant is already receiving services from an agency that might contribute to preventing or relieving homelessness, the housing authority may wish to seek the applicant's consent to

involving them in developing and agreeing reasonable steps, and in delivering the personalised housing plan.

11.23 The Secretary of State expects the type of reasonable steps a housing authority might take to prevent or relieve homeless to include but not be limited to the following, irrespective of whether the applicant may have a priority need or be homeless intentionally:

i. attempting mediation/conciliation where an applicant is threatened with parent/family exclusion;

ii. advising private tenants threatened with homelessness following service of a valid notice on the potential to defend possession proceedings, and on securing alternative accommodation where appropriate;

iii. engaging with landlords to understand the reasons for threatened eviction and to explore whether a tenancy can be sustained;

iv. assessing whether applicants with rent arrears might qualify for a Crisis and Resilience Fund Housing Payment;

v. advising private tenants on how to challenge a proposed rent increase that is above the market rate through the First Tier Tribunal;

vi. taking action to protect tenants from illegal eviction or other breaches of tenancy that create risks of homelessness;

vii. providing support to applicants, whether financial or otherwise, to access private rented accommodation;

viii. assisting people at risk of violence and domestic abuse wishing to stay safely in their home through provision of ‘sanctuary’ or other measures;

ix. helping to secure or securing an immediate safe place to stay for people who are sleeping rough or at high risk of sleeping rough.

11.24 **For private tenants** served a valid notice and threatened with homelessness, the following steps may also be considered reasonable, in addition to the above:

a. engaging with the landlord to understand the reasons for the threatened eviction and to explore whether the tenancy can be sustained;

b. Providing advice and support to tenants to defend possession proceedings, and to look for alternative accommodation where the landlord is likely to gain possession through the court.

Process and timing

11.25 Housing authorities are required to notify applicants of the assessments they have made, and also provide written personalised housing plans. In practice, these two notifications might be combined to provide a clearer response to applicants.

11.26 The duty to issue written notifications should not prevent a housing authority from taking immediate action to assist an applicant where necessary. An officer may, for example, contact a young applicant's parents or carers, perhaps through a same day home visit, if they have been asked to leave, or make immediate contact with a landlord where there is an imminent threat of eviction. In these cases prevention work would begin in parallel with the assessment and planning process, having regard to initial assessment findings and with the agreement of the applicant.

11.27 Where initial prevention or relief work is undertaken in parallel with the assessment and planning process it follows that in some cases successful prevention or relief will have been largely achieved before the assessment and personalised housing plan have been completed and the applicant has been informed in writing. Where this is the case, the record of actions taken might be included in the section 189A assessment, whilst any further steps needed to sustain the accommodation arrangements are included in the personalised housing plan.

11.28 Wherever possible and appropriate, housing authorities should prioritise efforts to prevent homelessness so that households can remain in their accommodation or, helped to secure a new home rather than becoming homeless. This might include, for example, achieving agreement for a young family to remain in the parental home pending an offer of Part 6 accommodation; or agreeing steps through which the housing authority and applicant might resolve outstanding benefit difficulties to clear or reduce rent arrears.

11.29 Housing authorities must take reasonable steps to prevent homelessness whether or not the applicant has a local connection with their area. If the applicant is actually homeless the authority may refer them to another authority where they have a local connection, and must provide copies of the assessment, and any revisions to it that have been notified to the applicant, as part of the referral arrangement. If the housing authority has agreed a personalised housing plan with the applicant they should also forward the plan to the notified authority if it has relevance, and with the applicant's consent. For further guidance on local connection see Chapter 10.

Reaching agreement and reviewing the plan (section 189A(4) to (11))

11.30 Housing authorities should make every effort to secure the agreement of applicants to their personalised housing plans. Identifying and attempting to address personal wishes and preferences will help achieve that agreement, and improve the likelihood that the plan will be successful in preventing or relieving homelessness.

11.31 If the housing authority is unable to reach an agreement with the applicant about the reasonable steps to be included in their personalised housing plan, they must record why they could not agree; and provide the written plan to the applicant indicating what steps they consider it reasonable for the applicant and the housing authority to take.

11.32 The personalised housing plan may include steps that the housing authority considers advisable for the applicant to take ('recommended steps'), but which the applicant is not required to take if they choose not to do so (section 189A(7)), as well as steps which they are required to take ('mandatory steps'). The relevant duty (prevention or relief) cannot be ended for failure to co-operate with recommended steps. The use of recommended steps might enable the authority to provide or refer the applicant to a broader range of advice and support, for example to address wider needs or to help increase their housing options in the future through employment support. Mandatory steps should be limited to those which the housing authority considers are required in order to prevent or relieve homelessness. The plan must set out clearly which steps are mandatory and which are recommended.

11.33 Assessments and personalised housing plans must be kept under review throughout the prevention and relief stages, and any amendments notified to the applicant. Housing authorities will wish to establish timescales for reviewing plans, and these are likely to vary according to individual needs and circumstances. Some applicants will need more intensive housing authority involvement to achieve a successful outcome than others, and the timescales for regular contact and reviews should reflect this. Personalised housing plans agreed during the prevention stage will need to be reviewed if an applicant subsequently becomes homelessness, enabling housing authorities and applicants to focus on steps required to help secure accommodation.

11.34 If the housing authority become aware that the information the applicant has provided for their assessment is inaccurate or if there is new information or a relevant change in the applicant's circumstances and needs there will be a need to initiate a review of the assessment and plan. The housing authority should also arrange a review if they believe the applicant is not cooperating with the personalised housing plan for whatever reason.

11.35 If the housing authority considers that their assessment of the applicant's circumstances and needs have changed, or that the agreement reached as to reasonable steps is no longer appropriate they must notify the applicant in writing. The housing authority must notify the applicant if it considers any of the agreed steps are no longer appropriate, and there will be no consequence of failure to take any of the 'removed' steps after written notification is given.

11.36 For practical purposes a review of the plan might be conducted by telephone, email or video-link, especially if the applicant is unable to or declining to attend office based appointments.

11.37 Applicants have a right under section 202 to request a review of the steps the housing authority is to take under sections 189B(2) and 195(2) which includes having regard to their personalised housing plan within the prevention and relief stages. Housing authorities should encourage applicants to raise any concerns they have about their plan and work to resolve disagreements to minimise the occasions on which the applicant will feel the need to request a review.

Chapter 12: Duty in cases of threatened homelessness (the prevention duty)

12.1 Section 195 of the 1996 Act – the 'prevention duty' - places a duty on housing authorities to work with people who are threatened with homelessness within 56 days to help prevent them from becoming homelessness. This chapter provides guidance on how to fulfil the prevention duty and the ways in which it can be ended.

12.2 Housing authorities may become aware of residents who are threatened with becoming homeless but not within 56 days, and possibly not within any specified time period; and are encouraged to offer assistance where possible rather than delay providing support which may be effective in preventing homelessness.

12.3 The section 195 duty applies when the housing authority is satisfied that the applicant is both threatened with homelessness and eligible for assistance. For further guidance on eligibility see Chapter 7 and for further guidance on threatened with homelessness see Chapter 6. The housing authority is obliged to take reasonable steps to help the applicant either remains in their existing accommodation or secure alternative accommodation. For further guidance on reasonable steps see Chapter 11.

12.4 The first option to be explored with the applicant should be enabling them to remain in their current home, where suitable. Where this is not possible, the focus should be on helping to secure alternative accommodation that the applicant can move into in a planned way. This will often involve taking steps to extend an applicant's stay in their existing accommodation until they can move.

12.5 The housing authority cannot refer an applicant to another district during the prevention duty, even if the conditions for referral that would apply during the relief and main housing duties are met. For further guidance on local connection see Chapter 10. This means the housing authority is obliged to take reasonable steps to help the applicant retain their existing accommodation or secure alternative accommodation wherever that may be. If the applicant is living at distance from the housing authority to which they have applied, one reasonable step to be agreed with the applicant might be for the receiving authority to make contact with the housing authority where the applicant is living to request their assistance in efforts to prevent homelessness.

12.6 Housing authorities may find it helpful to establish protocols for collaboration with relevant neighbouring authorities to improve outcomes and efficiency in localities where applicants frequently seek help in a different district to the one where they live.

12.7 The reasonable steps taken by both the authority and the applicant to help prevent homelessness should be those set out in the personalised housing plan drawn up and reviewed as set out in section 189A of the 1996 Act. For further guidance on personalised housing plans see Chapter 11. The housing authority will need to have arrangements in place for accessible and timely communication with applicants to maximise the effectiveness of their joint efforts to prevent homelessness.

12.8 Housing authorities must take into account the needs and circumstances of the applicant as they work to fulfil the prevention duty, recognising that there are a range of factors that will affect an applicants' ability to take action to help prevent their homelessness. For some more vulnerable applicants, the factors that have contributed to their being threatened with homelessness may also affect their ability to work with the housing authority to resolve that threat. The housing authority will want to seek to understand these factors and tailor the support it provides, both directly and through engaging relevant specialist services, accordingly.

12.9 Where homelessness is prevented, but an applicant's needs may put them at risk of a further threat of homelessness, the housing authority will want to work with relevant support and specialist services to help promote sustainability.

12.10 Where an applicant has to leave their accommodation without any reasonable prospect of an imminent return, or if it otherwise ceases to be reasonable for them to occupy before a suitable alternative is available, further duties should be considered under section 189B (the relief duty).

Chapter 13: Relief duty

13.1 Section 189B of the 1996 Act – the 'relief duty' - requires housing authorities to help people who are homeless to secure accommodation. This chapter of the code provides guidance on how to fulfil the relief duty.

13.2 The duty applies when the housing authority is satisfied that the applicant is both homeless and eligible for assistance. The housing authority is obliged to take reasonable steps to help the applicant secure suitable accommodation with a reasonable prospect that it will be available for their occupation for at least 6 months.

13.3 Where the housing authority have reason to believe that an applicant may be homeless, eligible and have a priority need they must provide interim accommodation under section 188(1) whilst fulfilling the relief duty. For further guidance on interim duties to accommodate see Chapter 15.

13.4 If the housing authority would be subject to the relief duty but consider that the conditions are met for referral to another housing authority in England (not Scotland or Wales) they have the discretion to notify that housing authority of their opinion (section198(A1)). For further guidance on local connection see Chapter 10.

13.5 The reasonable steps to be taken by both the housing authority and the applicant to help secure accommodation must include those set out in the personalised housing plan drawn up and reviewed as set out in section 189A. For further guidance on assessments and personalised housing plans see Chapter 11. The housing authority will need to have arrangements in place for accessible and timely communication with applicants to maximise the effectiveness of their joint efforts.

13.6 Housing authorities must take into account their assessment of the applicant's case under section 189A (which includes consideration of an applicant's housing needs, circumstances leading to homelessness, and support required) as they work to fulfil the relief duty, recognising that there are a range of factors that will affect an applicant's ability to take action to secure accommodation. For some applicants, the circumstances, needs or issues that have contributed to their being homeless may also affect their ability to work with the housing authority. The housing authority's duty to have regard to the applicant's section 189A assessment will assist the authority with understanding the applicant's particular situation and tailoring the support it provides under the relief duty, both directly and through engaging relevant specialist services, accordingly.

13.7 Housing authorities will want to ensure that people who are sleeping rough and eligible for assistance are supported to apply to them for housing assistance, and should seek to prevent applicants from starting to sleep rough during the course of the relief duty. For further guidance on joint working to address rough sleeping see the homelessness strategy see Chapter 2 and for further guidance on

personalised plans see Chapter 11. Specific considerations in relation to applicants who are (or are at imminent risk of) sleeping rough and are or may be owed the relief duty include:

a. working with other agencies and/or commissioned services to ensure rough sleepers are aware of, and have support to seek, housing assistance from the authority and in the provision of appropriate accommodation and/or support;

b. if the authority does not have reason to believe that the applicant may have a priority need and has not therefore provided interim accommodation under section 188(1), the use of discretionary powers to secure emergency accommodation to prevent nights on the streets, taking into account the risk of harm applicants may face. For further guidance on discretionary powers to secure emergency accommodation see Chapter 15;

c. if using discretion to enquire into whether an applicant has a local connection, remembering that normal residence does not require a settled address and may include periods sleeping rough. For further guidance on local connection see Chapter 10.

13.8 Where homelessness is relieved, but an applicant's needs, as set out in the personalised housing plan, may put them at risk of a further threat of homelessness, the housing authority should work with relevant support and specialist services to help promote sustainability.

13.9 Housing authorities may conduct and complete their inquiries into the duties that will be owed to an applicant under section 193(2), the main housing duty during the period in which they are attempting to relieve homelessness under the section 189B duty. However, this activity must not detract from the housing authority's work to relieve the applicant's homelessness. **Where the housing authority considers an applicant is unlikely to be owed a section 193(2) main housing duty they must not limit or reduce the assistance they provide during the relief duty for this reason.**

13.10 Housing authorities are advised against issuing a section 184 notification accepting the section 193 (main housing duty) during the relief stage. The section 193 duty cannot commence until the relief duty has come to an end and issuing notification during the relief stage might detract from activities to relieve their homelessness.

13.11 Housing authorities may issue a section 184 decision to the applicant, that when the relief duty ends they will owe them a duty under section 190 because they have a priority need but are intentionally homeless. Although the section 190 duty cannot commence until the relief duty has come to an end, the authority may wish to alert an applicant that the main housing duty will not be owed. It may be beneficial to review the personalised housing plan at this point to help maximise joint efforts to relieve homelessness.

13.12 If the authority has provided interim accommodation under section 188 and subsequently finds that the applicant does not have a priority need during the relief duty stage, a section 184 notification that neither the main housing duty nor the section 190 duty will be owed once the relief duty ends will bring the section 188 duty to an end (section 188(1ZA)(b)). The relief duty will continue to be owed until it ends in one of the circumstances in subsections (7) or (9) of section 189B. For further guidance on interim duties to accommodate see Chapter 15, and for guidance on ending the prevention and relief duty see Chapter 14.

Chapter 14: Ending the prevention and relief duties

14.1 This chapter provides guidance on how the (section 195) prevention and (section 189B) relief duties come to an end.

14.2 There are seven circumstances under which both the prevention and relief duties can be brought to an end. In addition to these common circumstances the prevention duty will end where the applicant has become homeless, and the relief duty will end when 56 days has passed and the housing authority is satisfied that the applicant has a priority need and is homeless unintentionally, or on refusal of a final accommodation offer or Part 6 offer.

14.3 The housing authority must give the applicant notice in order to end the duties except under section 189B (4) where 56 days have passed since the start of the relief duty and the housing authority is satisfied the applicant has a priority need and is homeless unintentionally. For further guidance on notifications see Chapter 18 and for further guidance on reviews see Chapter 19. Guidance on bringing the duties to an end under each circumstance is set out below.

14.4 Chapter 15 provides guidance on the ending of interim accommodation duties following the end of relief duties.

Circumstances in which both prevention and relief duties may end

A - the housing authority is satisfied that the applicant has suitable accommodation available for occupation and a reasonable prospect of suitable accommodation being available for at least six months from the date of the notice. Note that the Secretary of State has a power to increase this minimum period up to a maximum of 12 months (sections 195 (8) (a) and 189B (7) (a)).

14.5 Housing authorities must allow applicants a reasonable period for considering offers of accommodation that will bring the prevention and relief duties to an end. There is no set reasonable period – housing authorities must take into account the applicant's circumstances in each case.

14.6 Applicants should be given the opportunity to view accommodation before being required to decide whether to accept or refuse an offer, and before being required to sign any written agreement relating to the accommodation (for example, a tenancy agreement). If the accommodation is in another area and it is not practical to travel to view, sufficient information about the property and the locality should be made available to them. This may, for example, include photographs and the opportunity to ask questions of the landlord or agent.

14.7 In some circumstances, determining reasonable prospect will be less clear cut. For example, a landlord may agree to allow the applicant to stay in their accommodation having previously issued a section 8 or section 21 notice.

14.8 Where this is the case it is the responsibility of the housing authority to satisfy itself that there is a reasonable prospect of the accommodation being available for at least six months. This may, for example, involve securing written confirmation from the landlord that the applicant can remain in the accommodation on condition that they comply with documented conditions, and the housing authority having a reasonable expectation that the applicant is in a position to comply.

14.9 Where an applicant has remained at or returned home or gone to stay with friends or extended family, for example, through the use of mediation or negotiation, it is the responsibility of the housing authority to satisfy itself that accommodation will be available for at least six months. There may, for example, be an open ended agreement (perhaps with reasonable conditions), or an agreement that the applicant can stay until they have secured alternative accommodation (whether that happens before or after six months).

14.10 In some circumstances housing authorities may be able to facilitate a move into accommodation in a lodging or sponsorship arrangement whereby the household shares accommodation in a private home with a 'host' household, such as the sponsorship arrangements in place under the Homes for Ukraine scheme. In such circumstances housing authorities may end a prevention or relief duty if they are satisfied that the sponsorship or lodging arrangements are suitable and will continue to be available for at least 6 months. Housing authorities are reminded that if households refuse a suitable offer of such accommodation, they may bring the relevant prevention or relief duty to an end but it there will be no consequences affecting any subsequent duties, including the main housing duty owed to the applicant if they refuse it (see paragraphs 14.25 -14.27).

14.11 There may be other circumstances where there is a reasonable prospect of suitable accommodation being available for at least six months, but this not necessarily being the same accommodation throughout. For example, an applicant with support needs may be placed in short term supported accommodation which forms part of a planned accommodation and support pathway overseen by the housing authority. This may meet the conditions for ending the duty under this subsection if there is a clear, documented expectation that the applicant will be supported to make a planned move directly to more settled supported or independent accommodation through the pathway service.

14.12 The housing authority should take into account the support needs and vulnerabilities of an applicant, which will have been identified during assessment, in determining whether they can reasonably expect the applicant to sustain the accommodation for at least 6 months.

B - the housing authority has complied with the prevention or relief duty and 56 days have passed (regardless of whether the applicant is still threatened with homelessness in the case of the prevention duty or whether they have secured accommodation in the case of the relief duty) (sections 195 (8)(b) and 189B (7)(b)).

14.13 Under the **prevention duty** (section 195(6)) the 56 day period does not apply where the applicant has been given a valid section 21 notice that will expire within 56 days or has expired and is in respect of the only accommodation that is available for the applicant's accommodation. This is to ensure continuity of prevention services where an applicant remains in the property after the expiry of their section 21 notice or longer than 56 days from the duty starting and also remains threatened with homelessness. The same is the case where a valid section 8 notice is served from 1 May 2026 under one of the new or revised section 8 grounds inserted by the Renters' Rights Act 2025.

14.14 Where a housing authority is satisfied that, despite the section 21 or section 8 notice, the landlord has agreed not to pursue possession and there is a reasonable prospect of the accommodation being available for at least 6 months the prevention duty may be ended (section 195(8)(a)) (see paragraphs 14.7 and 14.8 above).

14.15 The housing authority can continue to deliver the **prevention or relief duty** with any applicant for longer than 56 days and issue a notice to end it under this subsection at any point after this date; as long as no other duties take precedence (for example, the relief duty takes precedence where an applicant previously owed the prevention duty becomes homeless).

14.16 Where the housing authority is satisfied that the applicant has a priority need and has become homeless unintentionally, the **relief duty** comes to an end after 56 days (section 189B (4)). Housing authorities should not delay completing their inquiries as to what further duties will be owed after the relief duty. Where the housing authority has the information it requires to make a decision as to whether the applicant is in priority need and became homeless unintentionally, it should be possible to notify the applicant on or around day 57. In cases where significant further investigations are required it is recommended that housing authorities aim to complete their inquiries and notify the applicant of their decision within a maximum of 15 working days after 56 days have passed.

14.17 Housing authorities should not have a blanket policy of ending the prevention and relief duties after 56 days where they have the discretion to continue it; instead they should in each case take the applicant's circumstances into account.

14.18 Where the applicant remains at risk of homelessness and the housing authority considers there is still the chance that homelessness can be prevented, it will be in the interests of both the applicant and the housing authority for work to continue to help the applicant avoid homelessness, whereupon they may make a new application to the housing authority for help under the relief duty.

14.19 During the relief stage, where an applicant does not have a priority need or they have a priority need and have become homeless intentionally, the authority may want to consider continuing the relief duty for longer. Considerations may include the needs of the applicant; the risk of the applicant sleeping rough; the prospects

of securing accommodation within a reasonable period; the resources available to the housing authority, and any wider implications of bringing the duty to an end (for example, in the case of an applicant who has dependent children and who became homeless intentionally where Children Act duties may apply if accommodation could not be secured).

C- an applicant who was owed the prevention duty has become homeless (section 195(8)(c)).

14.20 Where an applicant in these circumstances is owed the relief duty the housing authority will want to provide a seamless transition between the prevention and relief duties, including notifying the applicant of any further duties owed to them at the same time as issuing the notice advising that the prevention duty has ended. These notifications may be combined.

14.21 Where interim accommodation is to be provided, this should be arranged as a priority. Authorities should take the opportunity to plan interim accommodation in advance whenever it is possible to do so, in order to minimise distress and disruption for the applicant and provide maximum opportunity for planning for, for example, children's journeys to school.

14.22 The housing authority and the applicant will then need to review the assessment and personalised plan undertaken under section 189A, devising new reasonable steps to help secure that accommodation becomes available for the applicant under the relief duty. For further guidance on assessments and personalised housing plans see Chapter 11.

D- the applicant has refused an offer of suitable accommodation and, on the date of refusal, there was a reasonable prospect that suitable accommodation would be available for the minimum prescribed period (sections 195(8)(d) and 189B(7)(c)).

14.23 There is an important distinction between the consequences of refusal of an offer of suitable accommodation at the prevention and relief stages.

14.24 During the **prevention stage** the housing authority can bring the prevention duty to an end but refusal does not affect any further duties that may be owed to the applicant if they become homeless.

14.25 During the **relief stage** the housing authority can bring the relief duty to an end through a suitable offer of accommodation (section 189B (7)(c)) and there will be no consequences affecting any main housing duty owed to the applicant if they refuse it.

14.26 However, the housing authority can also bring the relief duty to an end through a final **accommodation offer (section 189B (9) (a)) or a final Part 6 offer.** Refusal of either of these types of offer will preclude the applicant from subsequently being owed the main housing duty (section 193A (3)). A final accommodation offer must be of an assured tenancy or of an assured shorthold tenancy of at least six months

duration, and the applicant must have been informed of the consequences of refusal as well as the right to request a review of the suitability of the offer. For guidance on the suitability of offers see Chapter 17.

14.27 It will be up to the housing authority to decide whether or not to end the prevention or relief duty when a suitable offer, other than a final offer or Part 6 offer, is refused. In reaching their decision a housing authority should consider the applicant's circumstances, the reason for their refusal, the reasonable steps they are taking to secure accommodation that better suits their needs and preferences and, in the case of the prevention duty, the likelihood of the applicant subsequently becoming homeless and applying for help under the relief duty.

14.28 For many applicants, working with the housing authority to prevent or relieve their homelessness will provide an opportunity to explore what realistic options are available to them and consider what compromises they may wish to make in order to achieve the best option for them. The opportunity to consider more than one property can play an important part in this process.

E - the applicant has become homeless intentionally from any accommodation that has been made available to them as a result of reasonable steps taken by the housing authority during the prevention or relief duty, whichever is relevant (sections 195(8)(e) and 189B(7)(d)).

14.29 Where the prevention duty ends under this circumstance, the applicant's entitlement to the relief duty will not be affected as the relief duty applies irrespective of whether or not an applicant is considered to be intentionally homeless.

14.30 Where the applicant has a priority need and the relief duty has ended under this circumstance, the main housing duty will not apply. An applicant should only be considered intentionally homeless under this provision if they have ceased to occupy accommodation which it would have been reasonable for them to continue to occupy, and which has been provided to them within the 'reasonable steps' provisions of the Act (sections 195(2) and 189B(2)). In most cases where such accommodation has been secured the housing authority will already have notified the applicant that the prevention or relief duty has come to an end, and so there will be very limited circumstances in which the duty is brought to an end through the provision of section 195(8)(e) and 189B(7)(d). However, the provisions could apply for example, if an applicant had suitable accommodation secured as part of the housing authorities reasonable steps, and had surrendered without good reason or been excluded from that accommodation due to their actions, before the housing authority had served notice that the duty had been brought to an end under Section 195 8a or Section 189B a (suitable accommodation has been secured)

14.31 Under section 190, duties to persons becoming homeless intentionally, the housing authority will need to secure that accommodation is available for the applicant's occupation for long enough to give them a reasonable opportunity of securing accommodation and provide advice and assistance in any attempts the applicant makes to secure accommodation. This advice must have regard to the

assessment the housing authority made under section 189A, assessment and personalised plans. For further guidance on intentional homelessness see Chapter 9.

14.32 Under section 191 (1ZA) of the 1996 Act, an exemption applies whereby certain care leavers cannot be found to have become intentionally homeless. A care leaver for the purposes of the exemption is a young person aged under 25 who is a relevant child or former relevant child under the Children Act 1989 sections 23A(2) or section 23C(1). For these exempt care leavers, housing authorities cannot bring the prevention duty to an end under section 195(8)(e), or the relief duty to an end under section 189B(7)(d). For further guidance see Chapter 9 (9.9-9.10).

F - the applicant is no longer eligible for assistance (sections 195(8)(f) and 189B(7)(e)).

14.33 In circumstances where an applicant is found not to be eligible for assistance, the housing authority must provide, or secure the provision, of information and advice as set out in section 179. For further guidance on eligibility see Chapter 7. If (section 188) interim accommodation has been provided, notice periods should take account of the needs of the applicant and the time required for them to access assistance. For households including children or particularly vulnerable adults who are owed duties under the Children Act 1989 or Care Act 2014, local authorities should consider having arrangements in place to manage a transition in responsibilities, so that there is no break in the provision of accommodation for applicants who cease to be eligible for 1996 Act support.

G- the applicant has withdrawn their application for homelessness assistance (sections 195(8)(g) and 189B(7)(f)).

14.34 Some applicants will cease contact with the authority rather than explicitly withdraw their application. It is recommended that local authorities have procedures in place to attempt to maintain or regain contact with applicants who have ceased contact prior to deciding to end the prevention or relief duty under this subsection. These efforts should take into account the circumstances and needs of the applicant, and use varied communication channels to help prevent, for example, losing contact with someone because they have lost their mobile phone. For further guidance on losing contact with applicants see Chapter 18.

14.35 It is recommended that where the housing authority considers that the applicant has withdrawn their application because they have failed to maintain contact, the duty is ended under this subsection rather than because 56 days has passed. This will help to ensure accurate data relating to the reasons why duties end.

H- deliberate and unreasonable refusal to co-operate (sections 195(10) and 189B(9)(b)).

14.36 The prevention and relief duties can also be brought to and end as a result of the applicant's deliberate and unreasonable refusal to co-operate. For further guidance on non-cooperation see Chapter 14. Where **either duty** is brought to

an end due to deliberate and unreasonable refusal to co-operate only the current duty will end. The applicant's entitlements under any other section of Part 7 are not affected.

Notification to end the prevention duty

14.37 Section 195(8) provides the circumstances in which the housing authority can give notice under section 195(5) to the applicant to bring the prevention duty to an end. For further guidance on the prevention duty see Chapter 12.

14.38 The notice must specify which of the circumstances in section 195(8) apply and inform the applicant that they have a right to request a review of the housing authority's decision to bring the duty to an end, and of the time frame within which such a request must be made.

14.39 Section 195(6) prevents a housing authority from bringing the prevention duty to an end after 56 days if the applicant has been given a valid section 8 or section 21 notice which will expire in 56 days or has expired, and is in respect of their only available accommodation. This means that the housing authority will continue to owe a prevention duty beyond the initial 56 days, until the applicant is served with a section 195(5) notice on the basis that another of the circumstance set out in section 195(8) applies.

Notification to end the relief duty (section 189B(7))

14.40 Section 189B(7) provides the circumstances in which the housing authority can give notice under section 189B (5) to the applicant bringing the relief duty under section 189B(2) to an end. For further guidance on the relief duty see Chapter 13.

14.41 The notice must specify which of the circumstances in section 189B(7) apply and inform the applicant that they have right to request a review of the authority's decision to bring the relief duty under section 189B(2) to an end, and of the time frame within which such a request must be made.

14.42 Housing authorities may refer an applicant's case to another housing authority in England during the relief duty if the applicant does not have a local connection with the authority to which they have applied, and does have a local connection to another district where they would not be at risk of violence. For guidance on local connection referrals see Chapter 10.

Deliberate and unreasonable refusal to co-operate (sections 193B and 193C)

14.43 Both the prevention and relief duties can be brought to an end under section 193B and section 193C if an applicant deliberately and unreasonably refuses to take any of the steps that they agreed to take, or the housing authority set out for them to take where agreement could not be reached, in their personalised housing plan (subsections (4) and (6)(b) of section 189A).

14.44 Before bringing either duty to an end by issuing a section 193B(2) notice, the housing authority must first issue a warning letting the applicant know that if they deliberately and unreasonably refuse to take any of the steps in their personalised housing plan after receiving the warning the authority intends to issue a notice bringing the prevention or relief duty, whichever is relevant, to an end. The warning must explain the consequences of a notice being given and the housing authority must allow a reasonable period after the warning is given before issuing a notice (section 193B(4) and (5)). There is no set reasonable period, but housing authorities should ensure sufficient time is given to allow the applicant to rectify the non-co-operation and prevent a notice being issued to end the prevention or relief duty. This will vary according to the particular needs and circumstances of the applicant.

14.45 Notices issued under section 193B(2) must explain why the housing authority are giving notice and its effect, and inform the applicant of their right to request a review of the decision to issue the notice (section 202(1)) and that a request for a review must be made within 21 days of being notified of that decision, or such longer period as the housing authority may allow in writing (section 202(3)).

14.46 Regulations relating to the procedure to be followed by housing authorities in connection with notices under section 193B (section 193B(7)) are set out in *The Homelessness (Review Procedure etc.) Regulations 2018* – these relate to decisions to issue a notice.

14.47 The ending of the **prevention or relief duties** under sections 193B and 193C will not affect the housing authority's assessment of what duties are subsequently owed. Applicants who are eligible for assistance, unintentionally homeless and have priority need but have been issued notice due to deliberate and unreasonable refusal to cooperate with reasonable steps to relieve their homelessness, will nevertheless be owed the main housing duty.

Meaning of deliberate and unreasonable refusal

14.48 Section 193B(6) provides that the housing authority must have regard to the particular circumstances and needs of the applicant, whether or not identified in the assessment under section 189A, in deciding whether refusal by the applicant is unreasonable.

14.49 Housing authorities should make reasonable efforts to obtain the co-operation of the applicant, including seeking to understand the reasons for their lack of cooperation, before invoking and during the use of section 193B. Where an applicant appears not to be co-operating the housing authority should review their assessment of the applicant's case and the appropriateness of the steps in the personalised housing plan (section 189A(9)) and explain the consequences of not co-operating before issuing a warning under section 193B(4). For further guidance on personalised housing plans see Chapter 11.

14.50 Where the applicant is receiving support from other services, for example the leaving care team, an offender management service, or a family support service,

the housing authority should alert relevant service(s) to the problem as soon as possible and seek to involve them in supporting the applicant to resolve the situation. Having local information sharing arrangements in place will facilitate this.

14.51 The housing authority should take into account any particular difficulties that the applicant may have in managing communications when considering if failure to cooperate is deliberate and unreasonable, particularly if they are street homeless or moving between temporary places to stay such as the homes of different family and friends.

14.52 The housing authority should be satisfied of the following before ending the prevention or relief duty under sections 193B and 193C:

a. the steps recorded in the applicant's personalised housing plan are reasonable in the context of the applicant's particular circumstances and needs;

b. the applicant understands what is required of them in order to fulfil the reasonable steps, and is therefore in a position to make a deliberate refusal;

c. the applicant is not refusing to co-operate as a result of a mental illness or other health need, for which they are not being provided with support, or because of a difficulty in communicating;

d. the applicant's refusal to co-operate with any step was deliberate and unreasonable in the context of their particular circumstances and needs. For example, if they prioritised attending a Jobcentre or medical appointment, or fulfilling a caring responsibility, above viewing a property, this is unlikely to constitute a deliberate and unreasonable refusal to cooperate. However, if the applicant persistently failed to attend property viewings or appointments without good reason; or they actively refused to engage with activity required to help them secure accommodation, then this might be considered deliberate and unreasonable refusal to cooperate.

Please see chapters 21-24 for client group specific considerations sections.

Notices in cases of an applicant's deliberate and unreasonable refusal to co-operate (section 193B(2))

14.53 Under section 193B(2), the housing authority may give a notice to an applicant if they consider that the applicant has deliberately and unreasonably refused to take one or more of the steps in their personalised housing plan.

14.54 Before serving this notice, the housing authority must have given a relevant warning to the applicant and a reasonable period of time has elapsed since the warning. The relevant warning must be a written notice to warn the applicant that if they deliberately and unreasonably refuse to take any step in their personalised housing plan the housing authority will issue a notice under section 193B(2), and explain the consequences of a section 193B(2) notice being served.

14.55 A housing authority must develop a procedure to be followed when issuing notices bringing their prevention or relief duties to an end under section 193B(2)). The procedure must:

a. be in writing;

b. be kept under review; and,

c. make provision for the decision to give a notice under section 193B(2) to be made by an officer of that housing authority and authorised by an appropriate person.

14.56 The original decision to issue the notice must be made by an officer of the housing authority and then receive authorisation by an appropriate person. An 'appropriate person' is someone of at least an equivalent seniority to the officer who made the original decision to issue a notice, and they must:

a. work for the housing authority or local authority; and,

b. not have been involved in the original decision to issue the notice.

14.57 The housing authority's procedures may provide that second sign off of the decision to issue a notice can be given by an appropriate person from another service within the local authority (or upper tier local authority). For example, in the case of a care leaver, second sign off by an officer of at least an equivalent seniority within Children's Services may be appropriate.

14.58 The appropriate person conducting the second sign off should give particular consideration as to whether the original decision to issue the notice had due regard to the circumstances and needs of the applicant, whether or not these were properly identified in the authority's assessment of the applicant's case under section 189A.

Chapter 15: Accommodation duties and powers

15.1 This chapter provides guidance on the housing authority's duties to secure accommodation for applicants, how they arise and are brought to an end; and the powers within the 1996 Act to secure accommodation for homeless households.

15.2 The chapter includes:

a. duties to provide interim accommodation;

b. powers to provide accommodation pending review or appeal;

c. duties to prevent and relieve homelessness, including a power to provide accommodation;

d. the section 193(2) duty to secure accommodation for applicants who are homeless, eligible for assistance, have priority need and are not intentionally homeless (the main housing duty).

Duties to provide interim accommodation

15.3 The 1996 Act provides four circumstances in which a housing authority must secure accommodation on an interim basis until a decision or other event occurs. These are set out below.

Section 188 interim duty to accommodate

15.4 Section 188(1) requires housing authorities to secure that accommodation is available for an applicant (and their household) if they have reason to believe that the applicant may:

a. be homeless;

b. be eligible for assistance; and,

c. have a priority need.

15.5 The threshold for triggering the section 188(1) duty is low as the housing authority only has to have a **reason to believe** (rather than being satisfied) that the applicant **may** be homeless, eligible for assistance and have a priority need.

15.6 The section 188(1) interim accommodation duty applies even where the housing authority considers the applicant may not have a local connection with their district and may have one with the district of another housing authority giving rise to the

possibility of referral (section188(2)). For further guidance on local connection see Chapter 10.

Ending the section 188 interim duty

15.7 The section 188(1) interim duty comes to an end when applicants are notified of certain decisions in relation to their application.

15.8 Following inquiries, where the housing authority concludes that **an applicant does not have a priority need**, the section 188(1) duty ends when **either:**

a. the housing authority notifies the applicant of the decision that they do not owe a section 189B(2) relief duty; **or**,

b. the housing authority notifies them of a decision that, once the section 189B(2) relief duty comes to an end, they do not owe a duty under section 190 (duties to persons becoming homeless intentionally) or section 193(2) (the main housing duty owed to applicants with priority need who are not homeless intentionally).

15.9 So, an applicant who the housing authority has found to be not in priority need within the 56 day 'relief stage' will no longer be owed a section 188(1) interim duty to accommodate, but will continue to be owed a section 189B(2) relief duty until that duty ends or is found not to be owed.

15.10 For any other case (including for **applicants who have a priority need**, and for applicants who the housing authority have reason to believe will be owed a duty because they have **reapplied within two years of accepting a private rented sector offer** (for further guidance on reapplication after a private rented sector offer see Chapter 18), the section 188(1) interim duty will end at **whichever is the later of**:

a. the housing authority notifies them of what duty (if any) they are owed under Part 7 of the 1996 Act once the section 189B(2) relief duty comes to an end;

b. the housing authority notifies them that they are not owed the section 189B(2) relief duty, or that this duty has come to an end;

c. the housing authority notifies them of a decision following their request for a review as to the suitability of a final accommodation offer or Part 6 offer made within the section 189B relief stage.

15.11 In summary, a housing authority may bring the section 188(1) interim accommodation duty to an end within the 56 day period (the relief stage) by issuing a section 184 decision that the applicant does not have priority need; or by issuing a notification that the relief duty is not owed or has been brought to an end. If neither of these notifications is issued within the 56 day period, the section 188(1) interim accommodation duty will be brought to an end by notification of what further duties are owed, if any, under section 193 or section 190. However,

in the event that the relief duty is brought to an end following refusal of a final accommodation or Part 6 offer, and the applicant requests a review as to the suitability of the accommodation offered, the section 188(1) duty will continue until a decision on the review has been notified to the applicant.

15.12 In circumstances where an applicant is found not to be eligible for assistance, the housing authority must provide, or secure the provision of, information and advice as set out in section 179. If (section 188) interim accommodation has been provided, notice periods should take account of the needs of the applicant and the time required for them to access assistance. For households including children or particularly vulnerable adults who are owed duties under the Children Act 1989 or Care Act 2014, local authorities should consider having arrangements in place to manage a transition in responsibilities, so that there is no break in the provision of accommodation for applicants who cease to be eligible for support under the1996 Act.

Section 190(2): duty to provide accommodation to applicants who are intentionally homeless

15.13 On reaching a decision that an applicant has priority need and is intentionally homeless, the housing authority must secure accommodation for a period of time that will provide a reasonable opportunity for them to find their own accommodation.

15.14 In determining the period of time for which accommodation will be secured under section 190(2) housing authorities must consider each case on its merits. A few weeks may provide the applicant with a reasonable opportunity to secure accommodation for themselves. However, some applicants might require longer and others, particularly where the housing authority provides pro-active and effective assistance, might require less time.

15.15 Housing authorities will need to take into account:

a. the particular needs and circumstances of the applicant and the resources available to them to secure accommodation. This might include any health or support needs that make it more difficult for the applicant to find and secure accommodation, as well as the support available from their family or social network;

b. the housing circumstances in the local area, and the length of time it might reasonably take to secure accommodation. In assessing this the housing authority might reflect on the efforts previously made by both the housing authority and the applicant to relieve their homelessness, and why these had not proved successful;

c. arrangements that have already been made by the applicant which are likely to be successful within a reasonable timescale. For example, if the applicant has secured accommodation that is not yet available to occupy or can demonstrate that accommodation will be so secured, the housing authority

should consider providing section 190(2) accommodation until the applicant is able to take up the accommodation.

Section 199A(2) and section 200(1): duties to accommodate applicants with no local connection pending outcome of referral

15.16 If the housing authority has notified an applicant that it proposes to refer the case to another housing authority, the notifying authority has a duty under section 199A(2) (if referral is in the relief stage of an applicant who the authority has reason to believe may have a priority need) or section 200(1) (if referral is in the section 193 main housing duty stage of an applicant who has a priority need and is unintentionally homeless) to secure that accommodation is available for the applicant until they are notified of the decision whether the conditions for referral are met. At this point the duty under section 199A(2) or 200(1) will come to an end and a duty under section 189B or section 193(2) will be owed by either the notified housing authority or the notifying housing authority. For further guidance on referrals to another housing authority see Chapter 10.

Suitability of accommodation

15.17 Section 206(1) provides that all accommodation provided under Part 7 of the 1996 Act must be suitable for the applicant and their household, and the suitability requirements under section 210 apply. For further guidance on the suitability of accommodation see Chapter 17. Housing authorities may take into account the interim nature of a placement when assessing whether or not it is suitable; as accommodation may be suitable for a few days or weeks that would not be suitable for a longer term placement.

15.18 The applicant does not have the right to ask for a statutory review under section 202 of the housing authority's decision as to the suitability of interim accommodation, but housing authorities are reminded that such decisions could be subject to judicial review.

Ending interim accommodation arrangements

15.19 When a housing authority is satisfied that they are under no further duty to secure interim accommodation or where this duty has ended, the housing authority will need to terminate the applicant's right of occupation. In the first instance, a housing authority should look to the terms of the licence or tenancy under which interim accommodation has been provided to establish the length of the notice period required.

15.20 Interim accommodation is usually provided under licences excluded from the requirement to issue 4 weeks written notice provided by the Protection from Eviction Act 1977. The courts have applied this principle in cases where the accommodation provided was B&B accommodation in a hotel, and where it was a self-contained flat. Consequently, housing authorities are required only to provide an applicant with reasonable notice to vacate the accommodation, and do not need to apply for a possession order from the court. However, housing

authorities are public bodies and so must act reasonably by giving the applicant at least some opportunity to find alternative accommodation before the interim accommodation is terminated. What is considered 'reasonable notice' would depend on the facts of the case, taking into account the circumstances of the applicant and allowing time for them to consider whether to request a review of the decision.

15.21 In cases involving applicants who have children under 18 where the housing authority have reason to believe that the applicant may be ineligible for assistance or may be homeless intentionally, the housing authority must, subject to the applicant's consent, alert the children's services authority to the case. A referral to the children's services authority may also be made without the applicant's consent where there are safeguarding concerns, in accordance with local procedures.

Refusal or loss of interim accommodation

15.22 Where an applicant rejects an offer of interim accommodation (or accepts and moves into the interim accommodation and then later rejects it), this will bring the housing authority's interim accommodation duty to an end – unless it is reactivated by any change of circumstances. Note, however, that an applicant's rejection of interim accommodation does not end other duties that the housing authority may owe under Part 7.

Discretionary powers to secure accommodation

15.23 Housing authorities have powers to secure accommodation for certain applicants who request a review of certain decisions on their case, and to certain applicants requesting accommodation pending determination of a county court appeal.

15.24 The fact that a housing authority has decided that an applicant is **not eligible** for housing assistance under Part 7 does not preclude it from exercising its powers to secure accommodation pending a review or appeal. However, housing authorities should note that section 54 of, and schedule 3 to, the Nationality, Immigration and Asylum Act 2002 prevent them from exercising their powers to accommodate an applicant pending a review or appeal to the county court, where the applicant is a person who falls within one of a number of classes of person specified in schedule 3 unless there would otherwise be a breach of the person's rights under the European Court of Human Rights or rights under EU Treaties (see paragraph 7.22). For further guidance on eligibility see Chapter 7.

Powers to accommodate pending a review

15.25 Under section 202, applicants have the right to ask for a review of a housing authority's decision on a number of issues relating to their case, and may also request that accommodation is secured for them pending a decision on the review. For further guidance on reviews see Chapter 19. Housing authorities have powers to accommodate applicants pending a decision on reviews under section 188(3), section 199A(6) and section 200(5) of the 1996 Act.

15.26 In considering whether to secure accommodation pending review housing authorities will need to balance the objective of maintaining fairness between homeless persons in circumstances where they have decided that no duty is owed to them, against proper consideration of the possibility that the applicant might be right. Housing authorities should consider the following, along with any other relevant factors:

a. the merits of the applicant's case that the original decision was flawed and the extent to which it can properly be said that the decision was one which was either contrary to the apparent merits or was one which involved a very fine balance of judgment;

b. whether any new material, information or argument has been put to them which could alter the original decision; and,

c. the personal circumstances of the applicant and the consequences to them of a decision not to exercise the discretion to accommodate.

15.27 Where an applicant is refused accommodation pending a review, they may seek to challenge the decision through judicial review.

Power to accommodate pending an appeal to the county court

15.28 Where an applicant is dissatisfied with a housing authority's section 202 review decision or are not notified of the review decision within the proper time limits, an applicant has the right to appeal to the county court on a point of law arising from the review decision or original homelessness decision. For further guidance on reviews see Chapter 19. Under section 204(4), housing authorities have the power to accommodate certain applicants:

a. during the period for making an appeal against their decision; and,

b. if an appeal is brought, until it and any subsequent appeals are finally determined.

15.29 This power may be exercised where the housing authority was previously under a duty to secure accommodation for the applicant's occupation under section 188, section 190, section 199A or section 200; and may be exercised whether or not the housing authority has exercised its powers to accommodate the applicant pending review.

15.30 In deciding whether to exercise this power, housing authorities will need to adopt the same approach, and consider the same factors, as for a decision whether to exercise their power to accommodate pending a review (see paragraph 15.26).

15.31 Under section 204A, applicants have a right to appeal to the county court against decisions on the use of the section 204(4) power to accommodate. This enables an appeal against decisions not to secure accommodation for them pending their

main appeal, or to stop securing accommodation, or to secure accommodation for only a limited period before final determination of the main appeal by the county court).

15.32 In deciding a section 204A appeal, if the court quashes the decision of the housing authority, it may order the authority to accommodate the applicant, but only where it is satisfied that failure to do so would substantially prejudice the applicant's ability to pursue the main appeal on the homelessness decision. For further guidance on reviews see Chapter 19.

Powers to secure accommodation to prevent or relieve homelessness

15.33 Housing authorities have duties to help prevent and relieve homelessness for eligible applicants who are threatened with becoming homelessness within 56 days, or are homeless. The section 195(2) prevention duty requires authorities to take reasonable steps to help the applicant to secure that accommodation does not cease to be available to them, and the relief duty requires housing authorities to take reasonable steps to help the applicant to secure that suitable accommodation becomes available to them for at least 6 months. For further guidance on the prevention duty see Chapter 12 and for further guidance on the relief duty see Chapter 13.

15.34 Section 205(3) of the 1996 Act enables housing authorities to discharge the section 189B (2) relief and/or section 195(2) prevention duties by securing accommodation for an applicant, where it decides to do so. The power to secure accommodation to applicants to prevent or relieve homelessness, regardless of priority need status, provides more flexibility to pursue appropriate housing options for applicants.

15.35 Housing authorities might use the section 205(3) power to deliver accommodation services for groups that are at higher risk of homelessness, for example young people with low incomes. The power might also be used to provide additional help to those least able to secure accommodation directly from a private landlord, such as people with an offending history or people with a mental health problem. Housing authorities will wish to consider local priorities, needs and resources when considering how the power might best be utilised in their district.

Duty to secure accommodation under the section 193(2) 'main housing duty'

15.36 Where an applicant is unintentionally homeless, eligible for assistance and has a priority need for accommodation, the housing authority has a duty under section 193(2) to secure that accommodation is available for their occupation (unless it refers the application to another housing authority under section 198). This is commonly known as 'the main housing duty'. **However, the main housing duty will not be owed to an applicant who has turned down a suitable final accommodation offer or Part 6 offer made during the section 189B(2) relief stage.**

15.37 The accommodation secured must be available for occupation by the applicant together with any other person who normally resides with them as a member of their family, or any other person who might reasonably be expected to reside with them. It must be suitable for their occupation. For further guidance on suitability see Chapter 17.

15.38 The housing authority will cease to be subject to the duty under section 193(2) (the main housing duty) in the following circumstances:

a. the applicant **accepts a suitable offer of accommodation under Part 6** (an allocation of social housing) (section 193(6) (c)). This would include an offer of an assured tenancy of a private registered provider property via the housing authority's allocation scheme;

b. the applicant **accepts or refuses a private rented sector offer - an offer of an assured tenancy, or an assured shorthold tenancy of at least 12 months- made by a private landlord (section 193(7AA)).** For this to be the case the applicant must have been informed in writing of the possible consequences of refusing or accepting the offer their right to request a review of the suitability of the accommodation, and where an assured shorthold tenancy is offered the duties that would be owed to them on reapplication if they become unintentionally homeless within two years of accepting the offer.

c. The applicant **refuses a final offer of accommodation under Part 6** (an allocation of social housing). The main housing duty does not end unless the applicant is informed of the possible consequences of refusal and of their right to ask for a review of the suitability of the accommodation (section 193(7)), the offer is made in writing and states that it is a final offer (section 193(7A)), and the housing authority is satisfied that the accommodation is suitable (section 193(7F));

d. the applicant **refuses an offer of temporary accommodation** which the housing authority is satisfied is suitable for the applicant (section 193(5)). For this to be the case the applicant must have been informed of the possible consequences of refusal and of their right to ask for a review of the suitability of the accommodation, and have been notified by the housing authority that it regards itself as having discharged its duty.

15.39 The main housing duty will also end if the applicant:

a. **ceases to be eligible** for assistance as defined in section 185 of the 1996 Act;

b. **becomes homeless intentionally** from accommodation made available to them under section 193. For further guidance on intentional homelessness see Chapter 9;

c. voluntarily **ceases to occupy** as their principal home the accommodation made available under section 193.

15.40 Under section 191 (1ZA) of the 1996 Act, an exemption applies whereby certain care leavers cannot be found to have become intentionally homeless. A care leaver for the purposes of the exemption is a young person aged under 25 who is a relevant child or former relevant child under sections 23A(2)) or 23C(1) of the Children Act 1989. This means that exempt care leavers cannot be found intentionally homeless from accommodation made available to them under section 193. For further guidance see chapter 9 (9.9-9.10).

15.41 In **restricted cases** housing authorities should, as far as is reasonably practicable, bring the section 193(2) duty to an end through the offer of a Assured Tenancy with a private landlord (section 193(7AD)). The applicant will not be owed a section 195A duty if they re-apply as unintentionally homeless within two years of accepting the offer. For further guidance on restricted cases see Chapter 7.

Pre-Localism Act 2011 cases

15.42 In circumstances where the housing authority accepted a section 193(2) duty on an application made before 9 November 2012, that duty cannot be brought to an end through an offer of an assured shorthold tenancy other than if it meets the terms of a “qualifying offer”.

15.43 A qualifying offer must be of a fixed-term tenancy of at least 12 months duration and be accompanied by a written statement that states the term of the tenancy being offered and explains in ordinary language that there is no obligation on the applicant to accept the offer, but if the offer is accepted the housing authority will cease to be subject to the section 193 duty. The applicant must have signed a statement acknowledging that he or she has understood the written statement accompanying the offer.

Making suitable offers

15.44 From 1 May 2026 the only accommodation offers that might meet the technical requirements of a 'qualifying offer' are tenancies of social housing offered by private registered providers, which would generally be Part 6 allocations, rather than made as a qualifying offer.

15.45 The Secretary of State recommends that applicants are given the chance to view accommodation that is offered on anything other than an interim basis, before being required to decide whether they accept or refuse an offer, and before being required to sign any written agreement relating to the accommodation (e.g. a tenancy agreement). Where housing authorities are making offers of accommodation outside their district they should take particular care to ensure that applicants have sufficient information about the location of the accommodation and the services that would be available to them there and that applicants are given a reasonable amount of time to consider the offer made

before reaching a decision. Under section 202(1A), an applicant who is offered accommodation can request a review of its suitability whether or not they have accepted the offer. For further guidance on suitability see Chapter 17 and for further guidance on reviews see Chapter 19.

15.46 Where an applicant has contractual or other obligations in respect of their existing accommodation (e.g. a tenancy agreement or lease), the housing authority can only reasonably expect an offer to be taken up if the applicant is able to bring those obligations to an end before being required to take up the offer (section 193(8)).

15.47 Housing authorities should allow applicants a reasonable period for considering offers of accommodation that will bring the main housing duty to an end whether accepted or refused. There is no set reasonable period; some applicants may require longer than others depending on their circumstances, whether they wish to seek advice in making their decision and whether they are already familiar with the property or locality in question. Longer periods may be required where the applicant is in hospital or temporarily absent from the district. In deciding what a reasonable period is, housing authorities must take into account the applicant's circumstances.

15.48 For further guidance on accommodation arrangements see:

a. Chapter 16: Securing accommodation;

b. Chapter 17: Suitability of accommodation.

Chapter 16: Securing accommodation

16.1 This chapter provides guidance on the ways in which housing authorities can ensure that suitable accommodation is available for applicants.

Securing and helping to secure accommodation

16.2 Housing authorities have various duties and powers to secure accommodation for an applicant, which require them to directly let or ensure a property owned by another landlord is made available to the applicant. The Homelessness Reduction Act 2017 introduced the duty to 'help to secure' accommodation for all applicants who are eligible for assistance and threatened with homelessness or homeless.

16.3 'Helping to secure' does not mean that the housing authority has a duty to directly find and secure the accommodation, but involves them working with applicants to agree (where possible) reasonable steps that the applicant and the housing authority can take to identify and secure suitable accommodation.

16.4 In providing 'help to secure', the housing authority is able to provide support and advice to households who are taking some responsibility for securing their own accommodation. This approach is intended to increase choice and control for applicants and allow the housing authority to help to resolve particular problems rather than direct resources at securing accommodation for households regardless of what assistance they need. It remains open to the housing authority to secure accommodation for eligible applicants where appropriate.

General considerations

16.5 Section 206(1) provides that a housing authority may discharge its housing functions under Part 7 in the following ways:

a. by securing that suitable accommodation provided by them is available for the applicant;

b. by securing that the applicant obtains suitable accommodation from some other person; or,

c. by giving the applicant such advice and assistance as will secure that suitable accommodation is available from some other person.

16.6 Accommodation secured must be available and suitable for occupation by the applicant and any other person who normally resides with them as a member of their family, or any other person who might reasonably be expected to reside with them. Section 208(1) requires housing authorities to secure accommodation within their district, in so far as is reasonably practicable. For further guidance on suitability of accommodation see Chapter 17.

16.7 In deciding what accommodation is to be secured, housing authorities will need to consider whether the applicant has any support needs, as identified in their (section 189A) personalised housing plan, and taking in to account any additional information available from health or social care services, or from other agencies providing services to them.

16.8 Where a housing authority has a duty under section 193(2) to secure accommodation for an applicant it should consider, where availability of suitable housing allows, securing settled (rather than temporary) accommodation that will bring the duty to an end in the immediate or short term.

16.9 Housing authorities may secure accommodation by giving advice and assistance to an applicant that will secure that accommodation becomes available for them from another person (section 206(1)(c)). However, where an authority has a duty to secure accommodation, they will need to ensure that the advice and assistance provided results in suitable accommodation actually being secured. Merely assisting the applicant in any efforts that they might make to find accommodation would not be sufficient if suitable accommodation did not actually become available.

Local authority owned accommodation

16.10 Housing authorities may secure temporary accommodation through its own stock (i.e. held under Part 2 of the Housing Act 1985). In considering whether to do so authorities will need to balance the requirements of applicants owed a duty under Part 7 against the need to provide accommodation for others who have reasonable preference for an allocation under Part 6 of the 1996 Act.

16.11 Paragraph 4 of Schedule 1 to the Housing Act 1985 provides that a tenancy granted by a housing authority in pursuance of any function under Part 7 is not a secure tenancy unless the housing authority notifies the tenant that it is such. Housing authorities are reminded that the allocation of secure and introductory tenancies must be made in accordance with their allocation scheme framed under the provisions of Part 6.

Private registered provider owned accommodation

16.12 Under section 213 of the 1996 Act, where requested by a housing authority, a private registered provider must assist the housing authority in carrying out their duties under the homelessness legislation by co-operating with them as far as is reasonable in the circumstances. Private registered providers have a duty under the 1996 Act to co-operate with housing authorities in exercising their homelessness functions. Private registered providers are subject to the Regulator of Social Housing's[3] Regulatory Standards, in particular the expectation that they

[3] *The regulation of social housing is the responsibility of the Regulation Committee, a statutory committee of the Homes and Communities Agency (HCA). The organisation refers to itself as the Regulator of Social Housing in undertaking the functions of the Regulation Committee. References in any enactment or instrument to the Regulator of Social Housing are references to the HCA acting through the Regulation Committee. Homes England is the trading name of the HCA's non-regulation functions.*

will co-operate with local authorities' strategic housing function, set out in the Tenancy and Home and Community Standards.

Co-operation between social housing providers

16.13 Under section 213 other social landlords have a duty to co-operate, as far as is reasonable in the circumstances, with a housing authority in carrying out their housing functions under Part 7 of the 1996 Act, if asked to do so.

16.14 Housing authorities may be able to assist one another by providing temporary or settled accommodation for homeless applicants. Under section 213(1), where one housing authority requests another to help them discharge a function under Part 7, the other housing authority must co-operate in providing such assistance as far as is reasonable in the circumstances.

16.15 This could be particularly appropriate in the case of applicants who would be at risk of violence or serious harassment in the district of the housing authority to whom they have applied for assistance. Other housing authorities may also be able to provide accommodation in cases where the applicant has special housing needs and the other housing authority has accommodation available which is appropriate to those needs. Housing authorities are encouraged to consider entering into reciprocal and co-operative arrangements where these might prove beneficial to authorities and to applicants.

Privately owned accommodation

16.16 Housing authorities may seek the assistance of private landlords in providing suitable accommodation direct to applicants, as well as engaging them in schemes that enable applicants to find their own private rented accommodation.

16.17 A general consent under section 25 of the Local Government Act 1988 (The General Consent under Section 25 of the Local Government Act 1988 for Financial Assistance to any person 2010) allows housing authorities to provide financial assistance to private landlords in order to secure accommodation for people who are homeless or at risk of homelessness. This could involve, for example, making small one-off grants ('finders' fees') to landlords to encourage them to let dwellings to households owed a homelessness duty; paying rent deposits or indemnities to ensure accommodation is secured for such households; and making one-off grant payments which would prevent an eviction. There is no limit set on the amount of financial assistance that can be provided, however housing authorities are obliged to act reasonably and in accordance with their fiduciary duty to local tax and rent payers.

Private rented sector offers

16.18 Private rented accommodation can be used to prevent or relieve homelessness, or to bring the main housing duty (section 193) to an end, but in all cases enabling

the applicant to exercise some choice over the accommodation offered to them is likely to increase the acceptance rate, and engage the cooperation of both applicants and landlords.

16.19 Housing authorities are encouraged to develop a private rented sector access scheme which provides opportunities for all applicants, including those who do not have a priority need, to access private rented accommodation. The level of help and support the authority is able to provide through such a scheme will vary to reflect local housing markets and available resources, but might include offers of bonds and guarantees, as well as payments towards deposits and incentives. Housing authorities will need to be mindful of the need to identify shared housing options for younger people, and will wish to work with landlords willing to provide suitable Houses in Multiple Occupation (HMOs).

16.20 Whilst housing authorities must ensure any accommodation offered to homeless applicants is suitable, there are additional suitability requirements that apply to private rented accommodation offered under section 193(7)(F) to end the main housing duty, or secured for applicants in priority need to prevent or relieve their homelessness. Private rented sector accommodation must meet the requirements of Article 3 if it is to be considered suitable when offered:

a. to bring to an end the section 193(2) main housing duty (section 193(7F));

b. as a final accommodation offer made in the 189B relief stage (section 193A(6)); or,

c. to an applicant who has priority need, in order to prevent or relieve their homelessness.

For further guidance on the suitability of private rented sector offers see Chapter 17.

16.21 Housing authorities may make Crisis and Resilience Fund Housing Payments to help an applicant secure accommodation and to meet a shortfall between the rent and the amount of Housing Benefit or Universal Credit payable to them. From 01 April 2026, the Crisis and Resilience Fund will provide a long-term mechanism for local authorities in England to support vulnerable households. Authorities may make Crisis and Resilience Fund Housing Payments to help an applicant secure accommodation and to meet a shortfall between the rent and the amount of Housing Benefit or Universal Credit payable to them. However, where they do this housing authorities should take into account how sustainable any arrangement will be in the longer term when considering suitability of accommodation.

16.22 Where still available to be granted (from 1 May 2026 by private registered providers for social housing), housing authorities are encouraged to secure assured shorthold tenancies of at least 12 months wherever possible, and if a private rented sector offer is being made to end the section 193 duty it must always be for a tenancy of at least 12 months and comply with other requirements

of section 193(7AA). From 1 May 2026 most private sector tenancies will be assured periodic.

Temporary accommodation provided by a private landlord

16.23 Section 209 governs security of tenure where a private landlord provides accommodation to assist a housing authority to discharge an interim duty. Any such accommodation is exempt from statutory security of tenure until 12 months from the date on which the applicant is notified of the authority's decision under section 184(3) or section 198(5) or from the date on which the applicant is notified of the decision on any review under section 202 or an appeal under section 204, unless the landlord notifies the applicant that the tenancy is an assured or assured shorthold tenancy.

16.24 Where a private registered provider lets accommodation directly to an applicant to assist a housing authority to discharge any other homelessness duty, the tenancy granted will be an assured shorthold tenancy unless the tenant is notified that it is to be regarded as an assured periodic tenancy.

Accommodation leased from a private landlord

16.25 Accommodation leased from a private landlord can provide housing authorities with a source of good quality, self-contained accommodation which can be let to applicants. When entering into leases, as when borrowing, local authority capital finance rules require authorities to be satisfied that the associated liabilities are affordable.

16.26 Housing authorities may wish to consider contracting with private registered providers for assistance in discharging their housing functions under arrangements whereby the private registered provider leases and/or manages accommodation owned by private landlords, which can be let to households to prevent or relieve homelessness or as temporary accommodation. A general consent under section 25 of the Local Government Act 1988 (The General Consent under section 25 of the Local Government Act 1988 for Financial Assistance to Registered Social Landlords or to Private Landlords to Relieve or Prevent Homelessness 2010) allows housing authorities to provide private registered providers with financial assistance in connection with such arrangements. Housing authorities must reserve the right to terminate such agreements, without penalty, after 3 years.

16.27 Housing authorities are encouraged to test approaches that would enable temporary accommodation to become settled accommodation and so reduce the uncertainty and lack of security that households in temporary accommodation can face. This could include converting private sector leased accommodation used as temporary accommodation into settled housing when the lease comes to an end. If the accommodation is suitable for the households needs, and the landlord would be prepared to let directly to them, the housing authority may wish to arrange for a section 193(7AA) private rented sector offer to end the section 193(2) duty. For further guidance on accommodation duties see Chapter 15.

Similarly, where a private registered provider holds the lease of accommodation owned by a private sector landlord, the accommodation might also be offered to the applicant (if suitable) as a section 193(7AA) offer to end the main housing duty (section 193(2)).

16.28 When considering conversion of temporary into settled accommodation, the interests and needs of the household, and the affordability of the new letting arrangement for the applicant, should be taken into account before any offer is made.

Bed and breakfast accommodation

16.29 Bed and breakfast (B&B) is defined in the Homelessness Suitability Order 2003 as a form of privately owned accommodation in which residents share facilities such as kitchens, bathrooms and/or toilets, and is usually paid for on a nightly basis.

16.30 Housing authorities must not use B&B to accommodate families with children or pregnant women except where there is no alternative available, and then for a maximum period not exceeding 6 weeks. Guidance states that B&B type accommodation is never suitable for 16-17 year olds.

Privately owned 'annexe' accommodation

16.31 Some housing authorities access the private market to secure self-contained accommodation (sometimes referred to as 'annexe' accommodation) for households, which is typically paid for on a nightly basis and typically involves family members sharing a large room with one another. This type of accommodation is unlikely to be suitable for families on anything but a short-term basis.

Lodgings

16.32 Lodgings provided by householders may be suitable for some applicants. Housing authorities may wish to establish a network of such landlords in their district, and might consider operating supported lodgings schemes for people with support needs, for example young people needing to gain skills for living independently.

Hostels and supported housing

16.33 Hostels and supported housing schemes may be owned and managed by local authorities, private registered providers, charities or private landlords and may be available through direct access, local referral arrangements or as direct temporary accommodation placements. The quality of accommodation provided within hostels varies considerably, and authorities should be particularly careful when securing or helping to secure accommodation with non-commissioned providers of hostel places that are not monitored or quality assessed.

16.34 Hostel accommodation typically involves some sharing of facilities, and in some hostels this includes sharing bedrooms as well as kitchens and bathing facilities.

16.35 Where hostel accommodation is used to accommodate vulnerable young people or families with children, the Secretary of State considers that it would be inappropriate to accommodate these groups alongside vulnerable adults. Housing authorities should be alert to the risks that may be associated with placing families with children, and young people, in mixed hostel settings, and should avoid doing so in circumstances where the housing authority does not have control over all of the placements.

16.36 Hostels can offer short-term accommodation to people who are experiencing homelessness, and housing authorities will wish to ensure they make the most effective use of services available, and that accommodation is suitable for the applicants placed there. Hostel accommodation that involves families or pregnant women sharing facilities with other households will not be suitable for longer-term placements.

16.37 Supported housing is usually, although not exclusively, commissioned by a local authority or other public body in order to meet the accommodation and support needs of particular groups who require such assistance. It can provide a highly valuable source of accommodation particularly for young people and for adults who need a period of stability and individual support to help them to prepare to live independently.

16.38 Housing authorities that have commissioned supported housing services will wish to keep the uptake, utilisation and move-on arrangements for these services under regular review to ensure that they meet local needs and that resources are maximised. In two-tier local authority areas, housing authorities should ensure that evidence of homelessness and support needs is available and informs commissioning priorities at upper tier level, and that there is collaboration across the districts to ensure efficient referral and move on from supported housing services. For further guidance on homelessness strategies and reviews see Chapter 2.

16.39 A placement in a short-stay hostel or supported housing scheme will be only be sufficient to meet a housing authority's duties to prevent or relieve homelessness where there is a planned pathway to ensure that accommodation will continue to be available to them for at least 6 months.

Refuges for victims of domestic abuse

16.40 Housing authorities should develop close links with refuges within their district, and neighbouring districts, to ensure they have access to emergency accommodation for applicants who are victims of domestic abuse who are at risk of such abuse. Refuge placements will usually require the applicant to speak directly to the service provider, and to indicate that they want and need refuge accommodation.

16.41 Housing authorities should recognise that placing an applicant in a refuge will generally be on a short-term basis, except where a longer period of support is

required to enable applicants to prepare to manage independently. Housing authorities should work together with refuge providers to ensure efficient and planned move on from refuge provision, to maximise the use of refuge spaces. For further guidance on domestic abuse see Chapter 21.

Housing First accommodation

16.42 Housing First is an approach to ending long term homelessness for people with complex needs. It has been developed specifically to meet the needs of the most challenging client groups who have previously been unable to sustain housing. Although there are some variations in approach between different providers of Housing First, the central principles include providing a home without any requirement to engage with services, flexible support available for as long as needed, enabling individuals to have choice and control, and to reduce harm.

Caravans, houseboats and other moveable accommodation

16.43 Under section 175(2) applicants are homeless if the accommodation available for their occupation is a caravan, houseboat, or other movable structure and they do not have a place where they are entitled, or permitted, to put it and live in it. If a duty to secure accommodation arises in such cases, the housing authority is not required to make equivalent accommodation available (or provide a site or berth for the applicant's own accommodation). However, the housing authority must consider whether such options are reasonably available, particularly where this would provide the most suitable solution to the applicant's accommodation needs.

16.44 The circumstances described in paragraph 16.43 will be particularly relevant in the case of Gypsies and Travellers. Where a duty to secure accommodation arises but an appropriate site is not immediately available, the housing authority may need to provide an alternative temporary solution until a suitable site, or some other suitable option, becomes available. Some Gypsies and Travellers may have a cultural aversion to the prospect of 'bricks and mortar' accommodation. In such cases, the housing authority should seek to provide an alternative solution. However, where the housing authority is satisfied that there is no prospect of a suitable site for the time being, there may be no alternative solution. Housing authorities must give consideration to the needs and lifestyle of applicants who are Gypsies and Travellers when considering their application and how best to discharge a duty to secure suitable accommodation, in line with their obligations to act consistently with the Human Rights Act 1998, and in particular the right to respect for private life, family and the home; as well as their duties under section 149 of the Equality Act 2010.

16.45 Although mobile homes may sometimes provide emergency or short-term accommodation for applicants who do not usually occupy movable accommodation, housing authorities will need to be satisfied that the accommodation is suitable for the applicant and their household, paying particular regard to their needs, requirements and circumstances and the conditions and facilities on the site. Caravans designed primarily for short-term holiday use should not be regarded as suitable as temporary accommodation for applicants.

Tenancies for minors

16.46 There are legal complications associated with the grant of a tenancy to a minor because a minor cannot hold a legal estate in land. In most cases a 16-17 year old who has become homeless will be accommodated under section 20 of the Children Act 1989 and/or through provision of supported housing or supported lodgings, and will not be ready to manage their own tenancy until they reach adulthood. If housing authorities are securing accommodation for 16-17 year olds within social housing or private rented stock there will need to be sufficient support in place, and a license agreement may be more appropriate depending on the arrangements in place. Where a minor is considered able to manage a tenancy independently this could be granted to a minor and held on trust. Authorities will need to take into account how the terms of any tenancy will be enforced in the event that there is a breach in tenancy conditions.

Chapter 17: Suitability of accommodation

17.1 This chapter provides guidance on the factors to be taken into account when determining the suitability of accommodation secured and helped to secure under the 1996 Act. This includes (temporary) accommodation secured under interim accommodation duties or the main housing duty as well as settled accommodation which would bring the prevention, relief or main housing duty to an end.

17.2 Section 206 provides that where a housing authority discharges its functions to secure that accommodation is available for an applicant the accommodation must be suitable. This applies in respect of all powers and duties to secure accommodation under Part 7, including interim duties. The accommodation must be suitable in relation to the applicant and to all members of their household who normally reside with them, or who might reasonably be expected to reside with them.

17.3 Section 210 of the 1996 Act sets out matters a housing authority must have regard to when determining suitability. Section 210(2) provides for the Secretary of State to specify by order the circumstances in which accommodation is or is not to be regarded as suitable for someone, and matters to be taken into account or disregarded in determining whether accommodation is suitable.

17.4 Space and arrangement will be key factors in determining the suitability of accommodation. However, consideration of whether accommodation is suitable will require an assessment of all aspects of the accommodation in the light of the relevant needs, requirements and circumstances of the homeless person and their household. The location of the accommodation will always be a relevant factor.

17.5 Housing authorities will need to consider carefully the suitability of accommodation for households with particular medical and/or physical needs. Physical access to and around the home, space, bathroom and kitchen facilities, access to a garden and modifications to assist people with sensory loss as well as mobility needs are all factors which might need to be taken into account.

17.6 Account will need to be taken of any social considerations relating to the applicant and their household that might affect the suitability of accommodation, including any risk of violence, racial or other harassment in a particular locality. Where domestic abuse is involved and the applicant is not able to stay in the current home, housing authorities may need to consider the need for alternative accommodation whose location can be kept a secret and which has security measures and staffing to protect the occupants.

17.7 Accommodation that is suitable for a short period, for example accommodation used to discharge an interim duty pending inquiries under section 188, may not

necessarily be suitable for a longer period, for example to discharge a duty under section 193(2).

17.8 Housing authorities have a continuing obligation to keep the suitability of accommodation under review, and to respond to any relevant change in circumstances which may affect suitability, until such time as the accommodation duty is brought to an end.

17.9 Housing authorities are required to assess whether accommodation is suitable for each household individually, and case records should demonstrate that they have taken the statutory requirements into account in securing the accommodation.

17.10 Housing authorities should be alert to circumstance in which the suitability of accommodation will require more regular review because the applicant's needs are likely to change. This would include, for example, regularly reviewing the suitability of accommodation provided to applicants who are terminally ill and in need of palliative care.

Standards of accommodation

17.11 Section 210(1) requires a housing authority to have regard to the following provisions when assessing the suitability of accommodation for an applicant:

a. Parts 9 and 10 of the Housing Act 1985 (the '1985 Act') (slum clearance and overcrowding); and,

b. Parts 1 to 4 of the Housing Act 2004 (the '2004 Act') (housing conditions, licensing of houses in multiple occupation, selective licensing of other residential accommodation, additional control provisions in relation to residential accommodation).

Cots in temporary accommodation

17.12 Accommodation will not be suitable for a household with children under the age of 2 if there is not adequate space for a cot for each child aged under 2.

17.13 Where households with babies and young children under 2 do not have access to a cot when placed in temporary accommodation, housing authorities should consider what support is available for the provision of a cot. This may involve housing authorities assisting the household to access a cot through local authority or external schemes where needed, especially in emergency situations where a household might be homeless as a result of domestic abuse.

Suitability of private rented accommodation

17.14 Article 3 of the Homelessness (Suitability of Accommodation) (England) Order 2012 concerns the suitability of privately rented accommodation offered to certain applicants who are homeless or threatened with homelessness.

17.15 Private rented sector accommodation must meet the requirements of Article 3 if it is to be considered suitable when offered:

a. to bring to an end the section 193(2) main housing duty (section 193(7F));

b. as a final accommodation offer made in the 189B relief stage (section 193A(6)); or,

c. to an applicant who has priority need, in order to prevent or relieve their homelessness.

17.16 A private rented property must not be regarded as suitable if the housing authority are of the view any of the following apply:

a. it is not in a reasonable physical condition;

b. electrical equipment supplied with the accommodation does not meet the requirements of Schedule 1 to the Electrical Equipment (Safety) Regulations 2016;

c. the landlord has not taken reasonable fire safety precautions with the accommodation and any furnishings supplied with it;

d. the landlord has not taken reasonable precautions to prevent the possibility of carbon monoxide poisoning in the accommodation (see 17.20 below);

e. the landlord is not a fit and proper person to act in the capacity of landlord (see 17.23 below).

17.17 A private rented property must not be regarded as suitable if any of the following apply:

a. it is a house in multiple occupation subject to licensing under section 55 of the Housing Act 2004 and is not licensed;

b. it is subject to additional licensing under section 56 of the Housing Act 2004 and is not licensed;

c. it forms part of residential property which does not have a valid Energy Performance Certificate as required by the Energy Performance of Buildings (England and Wales) Regulations 2012;

d. it is or forms part of relevant premises which do not have a current gas safety record in accordance with regulation 36 of the Gas Safety (Installation and Use) Regulations 1998(e);

e. the landlord has not provided a written tenancy agreement to the housing authority which the landlord proposes to use for the purposes of a private

rented sector offer, and which the housing authority considers to be adequate. It is expected that the housing authority should review the tenancy agreement to ensure that it sets out, ideally in a clear and comprehensible way, the tenant's obligations, for example a clear statement of the rent and other charges, and the responsibilities of the landlord, but does not contain unfair or unreasonable terms, such as call-out charges for repairs or professional cleaning at the end of the tenancy.

17.18 The particular requirements of Article 3 do not apply to accommodation secured for households that do not have priority need, or to accommodation that the authority helped the applicant to secure (for example through a bond guarantee or financial assistance) but which the applicant identified themselves. However, the Secretary of State expects housing authorities to make reasonable efforts to ensure private rented accommodation secured for applicants who do not have priority need is safe, and in reasonable condition; and that all applicants looking for their own accommodation have sufficient guidance to enable them to consider standards.

17.19 To determine whether or not accommodation meets the requirements set out in Article 3 housing authorities are advised to ensure it is visited by a local authority officer or someone acting on their behalf able to carry out an inspection. Attention should be paid to signs of damp or mould and indications that the property would be cold as well as to a visual check made of electrical installations and equipment (for example; looking for loose wiring, cracked or broken electrical sockets, light switches that do not work and appliances which do not appear to have been safety tested).

Additional health and safety requirements

17.20 The Regulatory Reform (Fire Safety) Order 2005 applies to the common or shared parts of multi occupied residential buildings. It places a duty on landlords, owners or managing agents to carry out a fire risk assessment of the common parts and implement and maintain appropriate and adequate fire safety measures to manage the risk that lives could be lost in a fire. As part of their responsibilities, landlords should put in place appropriate management and maintenance systems to ensure any fire safety equipment or equipment which may represent a fire hazard, is maintained in good working order, and in accordance with the manufacturers instructions. Landlords are also required to ensure that furniture and furnishings supplied must comply with the Furniture and Furnishings (Fire) (Safety) Regulations 1988 (as amended).

17.21 Housing authorities and fire and rescue authorities should work together to ensure the safety of domestic premises including the provision of fire safety advice to households. Housing authorities will need to satisfy themselves that these regulations have been adhered to.

17.22 Housing authorities are asked to satisfy themselves that there are reasonable precautions to prevent the possibility of carbon monoxide poisoning in the accommodation, where such a risk exists. Since 2015, private sector landlords

have been required to have at least one smoke alarm installed on every storey of their properties and a carbon monoxide alarm in any room containing a solid fuel burning appliance (for example a coal fire or wood burning stove). After that, the landlord must make sure the alarms are in working order at the start of each new tenancy.

Fit and proper landlords

17.23 Housing authorities must satisfy themselves that landlords are fit and proper people to act in the capacity of a landlord. This assessment involves consideration if the landlord has:

a. committed any offences involving fraud or other dishonesty, violence or illegal drugs, or that are listed in Schedule 3 to the Sexual Offences Act 2003(b) (offences attracting notification requirements);

b. practised unlawful discrimination on grounds of sex, race, age, disability, marriage or civil partnership, pregnancy or maternity, religion or belief, sexual orientation, gender identity or gender reassignment in, or in connection with, the carrying on of any business;

c. contravened any provision of the law relating to housing (including landlord or tenant law); or,

d. acted otherwise than in accordance with any applicable code of practice for the management of a house in multiple occupation, approved under section 233 of the Housing Act 2004(c).

17.24 The Secretary of State recommends that when placing households outside of their district that the authority liaise with the receiving district to check whether that authority has taken any enforcement activity against the landlord. The Housing and Planning Act 2016 introduced a range of measures to tackle rogue landlords including a database of rogue landlords or letting agents who have been banned; convicted of certain offences; or received multiple civil penalties for housing offences. Housing authorities could check this database as part of their inquiries.

Tenancy deposit scheme

17.25 Whilst a local authority will not be able to check that a tenant's deposit has been placed in a tenancy deposit protection scheme prior to them taking the tenancy housing authorities should remind prospective landlords and tenants of their responsibilities in this area.

Housing Health and Safety Rating System (HHSRS)

17.26 Housing authorities are obliged under section 3 of the Housing Act 2004 to keep the housing conditions in their area under review with a view to identifying any action that may need to be taken by them under the Household Health and Safety Ratings System legislation (HHSRS).

17.27 When determining the suitability of accommodation secured under the homelessness legislation, housing authorities should, as a minimum, ensure that all accommodation is free of Category 1 hazards. In the case of an out of district placement it is the responsibility of the placing authority to ensure that accommodation is free of Category 1 hazards.

Overcrowding

17.28 Part 10 of the 1985 Act is intended to tackle the problems of overcrowding in dwellings. Section 324 provides a definition of overcrowding which in turn relies on the room standard specified in section 325 and the space standard in section 326. Housing authorities must be mindful of these provisions when securing or helping to secure accommodation for homeless applicants.

17.29 A room provided within an HMO may be defined as a 'dwelling' under Part 10 of the 1985 Act and the room and space standards will therefore apply. Housing authorities should also note that 'crowding and space' is one of the hazards assessed by the HHSRS. Any breach of the room and space standards under Part 10 is likely to constitute a Category 1 hazard.

Houses in Multiple Occupation (HMOs)

17.30 Housing authorities must have regard to regulations governing the required standards for any Houses in Multiple Occupation (HMO) that may be secured or helped to secure for an applicant.

17.31 A property is an HMO if it satisfies the conditions set out in sections 254(2) to (4), has been declared an HMO under section 255 or is a converted block of flats to which section 257 applies. Privately owned bed and breakfast or hostel accommodation that is used to accommodate a household pursuant to a homelessness function, and which is the household's main residence, will fall within this definition of an HMO.

17.32 A housing authority will have to be satisfied that an HMO is suitable for the number of households or occupants it is licensed for and meets statutory standards relating to shared amenities and facilities. These standards are set out in Schedule 3 to the *Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006* (SI No 2006/373). These 'amenity standards' will run alongside the consideration of health and safety issues under HHSRS.

Bed and breakfast accommodation

17.33 Bed and breakfast (B&B) accommodation caters for very short-term stays only and affords residents only limited privacy, and may lack or require sharing of important amenities, such as cooking and laundry facilities. Wherever possible, housing authorities should avoid using B&B accommodation as accommodation for homeless applicants, unless, in the very limited circumstances where it is likely to be the case, it is the most appropriate option for the applicant.

17.34 Living in B&B accommodation can be particularly detrimental to the health and development of children. Under section 210(2), the Secretary of State has made the *Homelessness (Suitability of Accommodation) (England) Order 2003* (SI 2003 No. 3326) ('the 2003 Order'). The 2003 Order specifies that B&B accommodation is not to be regarded as suitable for applicants with family commitments provided with accommodation under Part 7.

17.35 Housing authorities should, therefore, use B&B accommodation to discharge a duty to secure accommodation for applicants with family commitments only as a last resort and then only for a maximum of six weeks. Applicants with family commitments means an applicant:

a. who is pregnant;

b. with whom a pregnant woman resides or might reasonably be expected to reside; or,

c. with whom dependent children reside or might reasonably be expected to reside.

17.36 For the purpose of the 2003 Order, B&B accommodation means accommodation (whether or not breakfast is included):

a. which is not separate and self-contained premises; and,

b. in which cooking facilities are not provided, or any of the following amenities is shared by more than one household:
   i. a toilet;
   ii. personal washing facilities; or,
   iii. cooking facilities.

17.37 B&B accommodation does not include accommodation which is owned or managed by a housing authority, a private registered provider or a voluntary organisation as defined in section 180(3) of the 1996 Act, or accommodation that is provided in a private home, such as lodging or as part of a sponsorship arrangement.

17.38 The 2003 Order provides that if no alternative accommodation is available for the applicant the housing authority may accommodate the family in B&B for a period, or periods, not exceeding six weeks in result of a single homelessness application. Where B&B accommodation is secured for an applicant with family commitments, the Secretary of State considers that the authority should notify the applicant of the effect of the 2003 Order, and, in particular, that the authority will be unable to continue to secure B&B accommodation for such applicants any longer than 6 weeks, after which the authority must secure alternative, suitable accommodation.

17.39 When determining whether accommodation other than B&B accommodation is available for use, housing authorities will need to take into account, among other things, the cost to the authority of securing the accommodation, the affordability of the accommodation for the applicant and the location of the accommodation. A housing authority is under no obligation to include in its considerations accommodation which is to be allocated in accordance with its allocation scheme, published under section 167 of the 1996 Act.

17.40 If there is a significant change in an applicant's circumstances that would bring the applicant within the scope of the 2003 Order, the six week period should start from the date the authority was informed of the change of circumstances not the date the applicant was originally placed in B&B accommodation.

17.41 If the conditions for referring a case are met and another housing authority accepts responsibility for an applicant under section 200(4), any time spent in B&B accommodation before this acceptance should be disregarded in calculating the six week period.

17.42 B&B accommodation is not suitable for 16 and 17 year old applicants even on an emergency basis.

17.43 The Secretary of State considers that the limited circumstances in which B&B accommodation may provide suitable accommodation could include those where:

a. emergency accommodation is required at very short notice (or example to discharge an interim duty to accommodate); or,
b. there is simply no better alternative accommodation available and the use of B&B accommodation is necessary as a last resort.

17.44 The Secretary of State considers that where housing authorities are unable to avoid using B&B accommodation to accommodate applicants, they should ensure that such accommodation is of a good standard and is used for the shortest period possible.

Standards of B&B accommodation

17.45 Where B&B accommodation is used to accommodate an applicant and is their main residence, it falls within the definition of an HMO. Local authorities have a power under the 2004 Act to issue an HMO Declaration confirming HMO status where there is uncertainty about the status of a property.

17.46 The Government recognises that living conditions in HMOs should not only be healthy and safe but should also provide acceptable, decent standards for people who may be unrelated to each other and who are sharing basic facilities. The Government has set out in regulation the minimum 'amenity standards' required for a property to be granted an HMO licence. These standards will only apply to HMOs covered by mandatory licensing or those HMOs that will be subject to additional licensing, and will not apply to the majority of HMOs. However, housing

authorities (or groups of authorities) can adopt their own local classification, amenity specification or minimum standards for B&B and other shared accommodation provided as temporary accommodation under Part 7.

Affordability

17.47 Under section 210(2), the Secretary of State has made the *Homelessness (Suitability of Accommodation) Order 1996* (SI 1996 No. 3204). The 1996 Order specifies that in determining whether it would be, or would have been, reasonable for a person to occupy accommodation and in determining whether accommodation is suitable a housing authority must take into account whether the accommodation is affordable by them, and in particular must take account of:

a. the financial resources available to them (i.e. all forms of income), including, but not limited to:
   i. salary, fees and other remuneration (from such sources as investments, grants, pensions, tax credits etc.);
   ii. social security benefits
   iii. payments due under a court order for the making of periodical payments to a spouse or a former spouse, or to, or for the benefit of, a child;
   iv. payments of child support maintenance due under the Child Support Act 1991;
   v. pensions;
   vi. contributions to the costs in respect of the accommodation which are or were made or which might reasonably be expected to be, or have been, made by other members of their household (most members can be assumed to contribute, but the amount depends on various factors including their age and income);
   vii. financial assistance towards the costs in respect of the accommodation, including loans, provided by a local authority, voluntary organisation or other body;
   viii. benefits derived from a policy of insurance (such as cover against unemployment or sickness);

b. savings and other capital sums which may be a source of income or might be available to meet accommodation expenses;

c. the costs in respect of the accommodation, including, but not limited to:
   i. payments of, or by way of, rent (including rent default/property damage deposits);
   ii. payments in respect of a licence or permission to occupy the accommodation;
   iii. mortgage costs (including an assessment of entitlement to support for mortgage interest (SMI) in income support/income-based jobseeker's allowance/income-related employment and support allowance/universal credit);

iv. payments of, or by way of, service charges (e.g. maintenance or other costs required as a condition of occupation of the accommodation);
v. mooring charges payable for a houseboat;
vi. where the accommodation is a caravan or a mobile home, payments in respect of the site on which it stands;
vii. the amount of council tax payable in respect of the accommodation; viii. payments by way of deposit or security in respect of the accommodation;
ix. payments required by an accommodation agency;

d. payments which that person is required to make under a court order for the making of periodical payments to a spouse or former spouse, or to, or for the benefit of, a child and payments of child support maintenance required to be made under the Child Support Act 1991; and,

e. other reasonable living expenses

17.48 Housing authorities will need to consider whether the applicant can afford the housing costs without being deprived of basic essentials such as food, clothing, heating, transport and other essentials specific to their circumstances. Housing costs should not be regarded as affordable if the applicant would be left with a residual income that is insufficient to meet these essential needs. Housing authorities may be guided by Universal Credit standard allowances when assessing the income that an applicant will require to meet essential needs aside from housing costs, but should ensure that the wishes, needs and circumstances of the applicant and their household are taken into account. The wider context of the applicant's particular circumstances should be considered when considering their household expenditure especially when these are higher than might be expected. For example, an applicant with a disabled child may have higher travel costs to ensure that the child is able to access additional support or education that they require and so this should be taken into account when assessing their essential needs, and the income that they have available for accommodation costs.

Location of accommodation

17.49 The suitability of the location for all the members of the household must be considered by the authority. Section 208(1) of the 1996 Act requires that authorities shall, in discharging their housing functions under Part 7 of the 1996 Act, in so far as is reasonably practicable, secure accommodation within the authority's own district.

17.50 Housing authorities, particularly those that find it necessary to make out of district placements, are advised to develop policies for the procurement and allocation of accommodation which will help to ensure suitability requirements are met. This would provide helpful guidance for staff responsible for identifying and making offers of accommodation, and would make local arrangements, and the challenges involved with sourcing accommodation, clearer to applicants.

17.51 Where it is not reasonably practicable to secure accommodation within district and an authority has secured accommodation outside their district, the housing authority is required to take into account the distance of that accommodation from the district of the authority. Where accommodation which is otherwise suitable and affordable is available nearer to the authority's district than the accommodation which it has secured, the accommodation which it has secured is not likely to be suitable unless the applicant has specified a preference, or the accommodation has been offered in accordance with a published policy which provides for fair and reasonable allocation of accommodation that is or may become available to applicants.

17.52 Generally, where possible, housing authorities should try to secure accommodation that is as close as possible to where an applicant was previously living. Securing accommodation for an applicant in a different location can cause difficulties for some applicants. Where possible the authority should seek to retain established links with schools, doctors, social workers and other key services and support.

17.53 In assessing the significance of disruption to employment, account will need to be taken of their need to reach their normal workplace from the accommodation secured. In assessing the significance of disruption to caring responsibilities, account should be taken of the type and importance of the care household members provide and the likely impact the withdrawal would cause.

17.54 When securing accommodation for families with children housing authorities should be mindful of their duties under section 11 of the Children Act 2004 to discharge their functions with regard to the need to safeguard and promote the welfare of children. This would include minimising the disruption to the education of children and young people, particularly (but not solely) at critical points in time such as leading up to taking GCSE (or their equivalent) examinations.

17.55 Before a family that includes a school age child is placed out of district, the housing authority should liaise with the receiving authority and make every reasonable effort to ensure arrangements are or will be put in place to meet the child's educational needs. Local authorities have a duty to ensure that school places are available for children who have moved in to their area, but particular care should be taken by housing authorities when placing families that may require more support to access school places, to ensure educational needs will be met.

17.56 Account should also be taken of medical facilities and other support currently provided for the applicant and their household. Housing authorities should consider the potential impact on the health and wellbeing of an applicant or any person reasonably expected to reside with them, were such support to be removed or medical facilities were no longer accessible. They should also consider whether similar facilities are accessible and available near the accommodation being offered and whether there would be any specific difficulties

in the applicant or person residing with them using those essential facilities, compared to the support they are currently receiving.

17.57 Housing authorities should avoid placing applicants in isolated accommodation away from public transport, shops and other facilities, where possible.

17.58 In some circumstances there will be clear benefits for the applicant of being accommodated outside of the district. This could occur, for example, where the applicant, and/or a member of their household, would be at risk of domestic abuse or other violence in the district and need to be accommodated elsewhere to reduce the risk of further contact with the perpetrator(s). Another example might be where, upon the advice of the relevant provider of offender management services (Probation Service, Community Rehabilitation Company or Youth Offending Team), ex-offenders or drug/alcohol users would benefit from being accommodated outside the district to help break links with previous contacts which could exert a negative influence.

17.59 There may also be advantages in enabling some applicants to access employment opportunities outside of their current district. The availability, or otherwise, of employment opportunities in the new area may help to determine if that area is suitable for the applicant.

17.60 The Secretary of State considers that applicants whose household has a need for social services support or a need to maintain links with other essential services within the borough, for example families with children who are subject to safeguarding arrangements, should be given particular attention when temporary accommodation is allocated, to try and ensure it is located in or close to the housing authorities own district. Careful consideration should be given to applicants with a mental illness or learning disability who may have a particular need to remain in a specific area, for example to maintain links with health service professionals and/or a reliance on existing informal support networks and community links. Such applicants may be less able than others to adapt to any disruption caused by being placed in accommodation in another district.

17.61 When making offers of accommodation to an applicant a housing authority should make clear in the offer letter why they consider the property to be suitable, taking into account the needs of the applicant and their household. If any members of the household have health problems the authority should state how their medical needs may be met in the district where the accommodation is located. For families with school age children, the authority should set out how the impact on their education has been assessed and what arrangements have been made for their education in the area of placement.

17.62 In determining whether accommodation is suitable for an applicant who meets the criteria in paragraph 17.61, where the accommodation is situated outside the district of the local housing authority, the local housing authority must take into account the significance of any disruption which would be caused by the location of the accommodation to any caring responsibilities of the person or members of

the person's household for persons with whom there are family associations. Family associations may extend beyond partners, parents, adult children or siblings. They may include associations with other family members such as stepparents, grandparents, grandchildren, aunts or uncles provided there are sufficiently close links in the form of frequent contact, commitment or dependency. Caring responsibilities in respect of family associations should be determined with regard to the fact-specific circumstances of the individual case. For example, the actual closeness of the family association and level of caring responsibilities may count for more than the degree of blood relation.

17.63 Where a housing authority places an applicant in accommodation outside the district under any part of the Act, section 208(2) requires them to notify the authority in whose district the accommodation is situated of the placement. The notification requirement applies to all out of district placements and not just those arranged under interim accommodation duties or the section 193(2) main housing duty. The notification must include:

a. the name of the applicant;

b. the number and description of other persons who normally reside with the applicant as a member of his or her family or might reasonably be expected to do so;

c. the address of the accommodation;

d. the date on which the accommodation was made available;

e. which function the housing authority is discharging in securing the accommodation; and,

f. the notice must be given in writing within 14 days of the accommodation being made available to the applicant.

17.64 Applicants should be given a reasonable amount of time to consider offers of accommodation outside their district (for further guidance see 15.47). In considering what amount of time is to be considered reasonable, housing authorities should take into account how familiar the applicant might be with the district offered, and the length of time that the household are likely to be living there.

17.65 Housing authorities should record how decisions to place an applicant out of district have been reached, taking into account the household's collective and individual needs.

Households with pets

17.66 Housing authorities will need to be sensitive to the importance of pets to some applicants, particularly elderly people and rough sleepers who may rely on pets for companionship. Although it will not always be possible to make provision for

pets, the Secretary of State recommends that housing authorities give careful consideration to this aspect when making provision for applicants who wish to retain their pet. The Renters' Rights Act 2025 introduced an implied term into private sector assured tenancies (within the meaning of the Housing and Regeneration Act 2008), that enable tenants to ask the landlord for permission to keep a pet, and when they do so consent cannot be unreasonably refused.

Right to request a review of suitability

17.67 Applicants may ask for a review on request of the housing authority's decision that the accommodation offered to them is suitable under section 202(1)(f), although this right does not apply in the case of interim accommodation secured under sections 188, 190, 200(1), 204(4). For further guidance on accommodation duties see Chapter 15. Under section 202(1A) an applicant may request a review as to suitability regardless of whether or not they accept the accommodation. This applies equally to offers of accommodation made under section 193(5) to discharge the section 193(2) main housing duty and to offers of an allocation of accommodation made under section 193(7) that would bring that duty to an end. This means that the applicant is able to ask for a review of suitability without inadvertently bringing the main housing duty to an end. Housing authorities should note that although there is no right of review of a decision on the suitability of accommodation secured under interim accommodation duties such decisions could nevertheless be subject to judicial review in the High Court. For further guidance see Chapter 19.

Chapter 18: Applications, decisions and notifications

18.1 This chapter provides guidance on dealing with applications for accommodation or assistance in obtaining accommodation, reapplications to a housing authority within two years of acceptance of a private rented sector offer and the circumstances in which an authority has a duty to notify an applicant of its decision.

Service provision

18.2 A need for accommodation, or assistance in obtaining accommodation, can arise at anytime. Housing authorities will therefore need to provide access to advice and assistance at all times during normal office hours, and have arrangements in place for 24 hour emergency cover, e.g. by enabling telephone access to an appropriate duty officer. The police and other relevant services should be provided with details of how to access the service outside normal office hours.

18.3 It is recommended that housing authorities should give proper consideration to the location of, and accessibility to, advice and information about homelessness and the prevention of homelessness, including the need to ensure privacy during interviews.

18.4 Housing authorities should publicise their opening hours, address, and the 24 hour contact details. For example, this information could be accessible on the housing authority's website. Translated information and interpreting services should be made available to applicants for who English is not a first language, and the availability of these services publicised to residents and community organisations. For more guidance on arrangements for carrying out assessments see 11.13 to 11.16.

Form of an application

18.5 Applications can be made to any department of the local authority and expressed in any particular form; they need not be expressed as explicitly seeking assistance under Part 7. As long as the communication seeks accommodation or assistance in obtaining accommodation and includes details that give the housing authority reason to believe that they might be homeless or threatened with homelessness, this will constitute an application.

18.6 Housing authorities should take particular attention to identify instances where information on an inquiry about a social housing allocation scheme, or an application for an allocation of housing under Part 6, provides reason to believe that the applicant might be homeless or threatened with homelessness. This should be regarded as an application for homelessness assistance.

18.7 A referral of a case made by a public authority to the housing authority under section 213B of the 1996 Act, the duty to refer, will not in itself constitute an application. However, housing authorities should make contact with the person referred and determine whether they have reason to believe that the applicant may be homeless or threatened with homelessness. For further guidance on the duty to refer see Chapter 4.

Persons making an application

18.8 An application can be made by any individual who has the mental capacity to do so. There is no statutory minimum age, but applications from dependent children should not be considered. A child aged 16-17 may make an application in their own right, and will require a Children Act 1989 assessment to be completed if they are homeless.

Applications to more than one housing authority

18.9 In some cases applicants may apply to more than one housing authority simultaneously and housing authorities should be alert to cases where an applicant is doing this. In such cases, where a housing authority has reason to believe that the applicant may be homeless or threatened with homelessness, it may wish to contact the other housing authorities involved, to agree which housing authority will take responsibility for conducting inquiries. Where another housing authority has previously made decisions about an applicant's circumstances, a housing authority considering a fresh application may wish to have regard to those decisions. However, housing authorities should not rely solely on decisions made by another housing authority and will need to make their own inquiries in order to reach an independent decision on whether any duty, and if so which duty, is owed under Part 7. Any arrangements for the discharge of any of their functions by another housing authority must comply with section 101 of the Local Government Act 1972.

Withholding or falsifying information

18.10 Under section 214, it is an offence for a person, knowingly or recklessly to make a false statement, or knowingly to withhold information, with intent to induce the housing authority to believe that they, or another person, are entitled to accommodation or assistance under Part 7. If, before the applicant receives notification of a decision, there is any change of facts material to their case, they must inform the housing authority of this as soon as possible. Housing authorities must ensure that all applicants are made aware of these obligations and that they are explained in ordinary language. Housing authorities are advised to ensure that the obligations are conveyed sensitively to avoid intimidating applicants.

Further applications

18.11 There is no period of disqualification if someone wants to make a fresh application. Where a person whose application has been previously considered and determined under Part 7 makes a fresh application, the housing authority will need to decide whether there are any new facts which render it different from the

earlier application. If no new facts are revealed, or any new facts are of a trivial nature, the housing authority would not be required to consider the new application and can instead rely on its previous decision. However, where the fresh application does reveal a change in relevant facts, the housing authority must treat the fresh application in the same way as it would any other application for accommodation or assistance in obtaining accommodation under Part 7.

18.12 In the majority of re-application cases where the applicant has previously refused an offer of suitable accommodation, the housing authority will be entitled to rely on the ending of its duties following the refusal of accommodation. However, if, after the refusal of accommodation, the applicant's factual circumstances change, the housing authority can no longer rely on the completion of the earlier duty and must consider the fresh application.

18.13 For example, if an applicant makes a further application following a relationship breakdown which has changed the membership of the household, this should be treated as a new application following a factual change of circumstances.

Withdrawn applications

18.14 It is recommended that housing authorities have procedures in place for dealing with applications that are withdrawn or where someone fails to maintain contact with the housing authority after making an application. The Secretary of State considers that it would be reasonable to consider an application closed where the applicant has not responded to any form of contact for 56 days or longer. Any further approach from the applicant after this time may need to be considered as a fresh application. Where an applicant renews contact within 56 days the housing authority will need to consider any change of circumstances that may affect the application.

18.15 If an applicant dies before a decision is reached on their application, the housing authority can substitute another member of the late applicant's household as applicant upon the consent of that household member.

Reapplication to a housing authority within two years of acceptance of a private rented sector offer

18.16 Under section 195A(1) (re-application after private rented sector offer), the section 193(2) duty will apply regardless of whether the applicant has a priority need where:

a. a person makes a re-application for assistance within two years of accepting a private rented sector offer of an assured-shorthold tenancy, including from a private registered provider under section 193(7AA); and,

b. the applicant is eligible for assistance and has become homeless unintentionally.

The date from which the two years begins is the date of acceptance of the private rented sector offer, not the date when the assured shorthold tenancy was granted or when the applicant moved in.

18.17 Housing authorities should be aware that if, following the expiry of the initial 12 month assured shorthold tenancy, an applicant secures their own accommodation and then subsequently becomes homeless within two years of the original private rented sector offer then the re-application duty will still apply.

18.18 Given the two year re-application duty only applies where the section 193(2) duty has been brought to an end through a private rented sector offer of an assured shorthold tenancy, it is likely to only be relevant where such an offer was accepted before 1 May 2026. The duty will continue to apply to those offers even where the assured shorthold tenancy has converted to an assured tenancy from which the applicant has been made unintentionally homeless.

18.19 If the applicant is found to have become homeless intentionally but does have a priority need, the housing authority must secure short-term accommodation for the applicant under section 190(2)(a) for such period as they consider will give them a reasonable opportunity of securing accommodation.

Referrals to another housing authority

18.21 Housing authorities should note that the section 193(2) duty on re-application will apply regardless of whether or not the housing authority receiving the reapplication is the same housing authority that arranged the private rented sector offer. This means that the housing authority receiving the re-application cannot simply refer the applicant to the housing authority which made the private rented sector offer but must first carry out investigations to determine whether the applicant is eligible and homeless through no fault of their own, under section 195A. It is for the receiving housing authority to establish whether the applicant has become homeless unintentionally. Once established, this matter cannot be reopened.

18.22 Once the receiving housing authority has established that the applicant is unintentionally homeless and eligible for assistance, they may refer the applicant to the housing authority that made the private rented sector offer. The conditions for referral of the case to the other housing authority are met once it has been established that the re-application has been made within two years and neither the applicant nor any person who might reasonably be expected to reside with the applicant will be at risk of violence or domestic abuse in the district of the other housing authority.

18.23 The term 'domestic abuse' is defined by the Domestic Abuse Act 2021 as outlined in Chapter 21. When assessing other 'violence' (violence that is not related to domestic abuse) the term 'violence' should not be given a restrictive meaning, and 'domestic violence' should be understood to include physical violence and threatening or intimidating behaviour.

18.24 The housing authority which made the private rented sector offer will owe the reapplication duty and it will be their responsibility to secure accommodation is available for occupation by the applicant. Housing authorities are expected to respond quickly to referrals and requests for information.

18.25 Housing authorities are reminded to consider the conditions for referral of a case to another housing authority as set out under section 198(2ZA). For further guidance on referrals to another housing authority see Chapter 10 and risk of domestic abuse see Chapter 21.

18.26 Referrals regarding re-applications are not subject to any consideration of local connection.

When re-application does not apply

18.27 The provisions under section 195A do not apply in a restricted case. Additionally, these provisions do not apply in a case where the applicant has previously made a re-application which resulted in their being owed the duty under section 193(2) by virtue of section 195A(1) This effectively means that an applicant can only be owed the re-application duty once following each private rented sector offer. For further guidance on restricted cases see Chapter 7.

Interim duty to accommodate

18.28 Under section 188(1A), if the housing authority have reason to believe that the reapplication duty may apply, they must secure interim accommodation for the applicant regardless of whether or not they have a priority need.

18.29 Housing authorities should note that the duty under section 188(1A) will apply regardless of whether the housing authority receiving the reapplication is the same authority that arranged the private rented sector offer.

Notifications to applicants

18.30 Housing authorities are required to provide written notifications to applicants of certain decisions reached in relation to their applications under Part 7. In all cases notifications should be clearly written in plain language, and include information about the right to request a review and the timescales that apply. Housing authorities might also include information about independent advice services available to the applicant. In cases where the applicant may have difficulty understanding the implications of the decision, it is recommended that housing authorities consider arranging for a member of staff to provide and explain the notification in person.

18.31 Housing authorities should consider the most appropriate way to notify applicants of decisions. The housing authority may send a written notification by email or letter, depending on the needs of the applicant.

18.32 Written notification not received by the applicant can be treated as having been given to them, if it is made available at the housing authority's office for a reasonable period that would allow it to be collected by the applicant or by someone acting on their behalf.

Combining notifications

18.33 There will be circumstances in which more than one notification will be required at the same time and it will be more efficient and clearer for the applicant to combine the necessary information within one notification letter. In these circumstances and where appropriate, housing authorities are encouraged to combine information in one notification letter. Housing authorities will need to take particular care to ensure the information provided to the applicant is clear and comprehensive, and that they are made aware of review rights in respect of each of the decisions about which they are being notified.

Notification on decisions about duties owed section 184(3)

18.34 If a housing authority has reason to believe that a person applying for assistance may be homeless or threatened with homelessness, the housing authority must make such inquiries as are necessary to satisfy itself whether the applicant is eligible for assistance and if so, whether any duty, and if so what duty, is owed to that person under Part 7 of the 1996 Act. When a housing authority has completed its inquiries it must notify the applicant in writing of its decisions.

18.35 Where a decision is against the applicant's interests the notification must explain clearly and fully the reasons for the decision. In cases where contradictory factual accounts are put before the housing authority, and it prefers one account to another, the decisions letter should explain why a particular account was preferred.

Notification bringing duties to an end

18.36 Housing authorities can give notice to the applicant bringing their duties to an end at each stage. The conditions and requirements for these notifications are set out separately under each provision.

18.37 A notice bringing duties to an end must explain why the housing authority are giving the notice and its effect, and inform the applicant that they have a right to request a review of the authority's decision to give the notice and of the time within which such a request must be made. For further guidance on how and when the prevention and relief duties can be ended and on issuing notices in cases of an applicant's deliberate and unreasonable refusal to co-operate see Chapter 14.

Temporary accommodation notification duty

18.38 The temporary accommodation notification duty was introduced by the Children's Wellbeing and Schools Act 2026 which amended the Housing Act 1996 by adding section 213AA. The measure introduces a duty on housing authorities in England to take reasonable steps to notify educational institutions, GP practices and health

visiting services when a child is placed in temporary accommodation. Health visiting services must be notified (where agreement is obtained) for children aged under 5 or under 18-year-olds who are pregnant. Housing authorities may choose to go further and notify health visiting services where a household includes a pregnant woman who is not a child (see paragraph 18.49 below).

18.39 This duty is intended to strengthen information sharing so that educational institutions and specified health providers are aware where a child may require additional or different support and can seek to improve their outcomes.

Agreement to share information

18.40 This duty arises when the parent (including those who care for the child or have parental responsibility for the child) or the child themselves in cases of 16-17-year-olds living independently from their parents and making their own application, agrees to the notification being made.

18.41 The housing authority must first seek agreement for the notification to be made. The housing authority should explain the reason for making a notification, which is to share information so that educational institutions and specified health providers are aware where a child may require additional or different support, and enable health visiting services to visit children aged under 5 or under 18-year-olds who are pregnant. Agreement must be sought for each child in the household, and for each of the relevant bodies.

Relevant bodies

18.42 The relevant bodies who should be notified are:

a. the general medical practice in England where the child is registered;
b. the health visiting service that will be available to the child at their temporary accommodation address;
c. academies, non-maintained special schools, special post-16 institutions, providers of post-16 education or training, local authority maintained schools, and further education institutions at which the child is a registered pupil or student, as relevant.

The duty

18.43 If agreement to notify is given, the housing authority must take reasonable steps to notify each relevant body applicable to the child within 14 days.

18.44 For each relevant body, the 14-day period runs from the latest of:

- The day on which the authority receives agreement,
- The day on which the information about the relevant body is provided to the authority, or
- The day on which the child is placed in temporary accommodation.

18.45 The notification duty applies to temporary accommodation placements made on or after 1 September 2026, and only arises once within each application, at the point of initial placement; so that no further notifications are required if the child moves to alternative temporary accommodation. When developing local procedures, housing

authorities may consider opportunities to provide additional notifications (with agreement) to support continuity of health and educational support. This could include notifying relevant bodies, where children are placed in temporary accommodation in a different area after the initial placement.

The procedure for notifications

18.46 The housing authority should establish effective arrangements for processing notifications, to include having current and accurate contact details and methods of communication with educational institutions, GP practices and health visiting services in their local area. For notifications to health visiting services outside of the housing authority's local area, details can be found as needed online or on the receiving authority's website. Housing authorities may wish to provide advice or training to the relevant bodies in their area to raise awareness of the notification duty and the support available to help families whilst homeless.

Information to be obtained and included in notifications

18.47 If agreement is provided by the relevant parent/guardian or 16–17-year-old, the housing authority will need to obtain the details of the relevant educational and health services to which the notification duty applies and for which agreement has been given. The information that should be shared with any notification is the child's name, date of birth, and that they are living in temporary accommodation.

18.48 For health visiting services (and/or their provider organisation), the notification should also include the temporary accommodation address and a contact telephone number and name (for the relevant parent/guardian or 16-17-year-old), to enable the service to visit the child.

Educational institutions, GP practices and health visiting services

18.49 Health Visiting Services have a statutory duty to offer health and development reviews to support (and maintain) holistic health and wellbeing through personalised and proportionate clinical care. The reviews will involve an assessment of families' circumstances as well as their home environment, enabling prevention and early intervention, including by way of allowing risks to be identified early and then addressed in a timely manner. As the first health and development review is during the antenatal period, housing authorities may consider seeking agreement to notify health visiting services when a household without children that includes a pregnant woman is placed into temporary accommodation, although there is no statutory requirement to do so. The Department for Health and Social Care has developed guidance to inform GP practices and health visiting services of this measure and action they could take as a result of receiving a notification, in line with their local practice.

18.50 The Department for Education has updated their 'Keeping Children Safe in Education' guidance (Keeping children safe in education - GOV.UK), to inform schools of this measure and action they could take as a result of receiving a notification. Education settings will have their own range of existing safeguarding support measures in place. Upon receipt of the notification, there are several ways in which schools could support

pupils affected, which may include: identifying a temporary accommodation ‘champion’ (such as the safeguarding, pastoral or attendance lead), access to quiet space, wellbeing tools, practical support such as travel planning and bus routes, access to breakfast clubs, spare uniform, PE kits or laundry.

Chapter 19: Review of decisions and appeals to the County Court

19.1 This chapter provides guidance on the procedures to be followed when an applicant requests the housing authority to review any decision on their case.

Right to request a review

19.2 Applicants have the right to request the housing authority review their decisions on homelessness cases in some circumstances. If the request is made in accordance with section 202 the housing authority, or housing authorities, concerned must review the relevant decision.

19.3 Under section 202(1) an applicant has the right to request a review of a housing authority's decision:

a. of their eligibility for assistance (section 202(1)(a));

b. what duty (if any) is owed to them in relation to the duties owed to persons found to be homeless or threatened with homelessness (section 202(1)(b));

c. of the steps the housing authority are to take under section 195(2) which includes having regard to their assessment of the applicants case in the r personalised housing plan at the prevention duty (section 202(1)(bc)(i));

d. to give notice to bring the prevention duty to an end (section 202(1)(bc)(ii));

e. of the steps the housing authority are to take under section 189B(2) which includes having regard to their assessment of the applicant's case in the personalised housing plan at the relief duty (section 202(1)(ba)(i));

f. to give notice to bring the relief duty to an end (section 202(1)(ba)(ii));

g. to give notice under section 193B(2) in cases of deliberate and unreasonable refusal to co-operate (section 202(1)(bb));

h. to notify their case to another authority under section 198(1) (i.e. a decision to refer the applicant at the main housing duty, to another housing authority because they consider that the conditions for referral are met) (section 202(1)(c));

i. under section 198(5) as to whether the conditions are met for the referral of their case to another housing authority at the relief duty or main housing duty (including a decision reached either by agreement between the notifying and notified authority, or taken by a person appointed under the *Homelessness*

(Decisions on Referrals) Order 1998 (SI 1998 No.1578) where agreement cannot be reached) (section 202(1)(d));

j. under section 200(3) (i.e. where a decision is made that the conditions for referral are not met and so the notifying housing authority owe the section 193 main housing duty) or a decision under section 200(4) (i.e. a decision that the conditions for referral to a notified authority in Wales are met and the notified authority owe the section 193 main housing duty) (section 202(1)(e));

k. as to the suitability of accommodation offered to the applicant under any of the provisions in paragraph (b) or (j) above or the suitability of accommodation offered under section 193(7) in relation to allocations under Part 6 [section 202(1)(f)]. Applicants can request a review of the suitability of accommodation whether or not they have accepted the offer (section 202(1B));

l. as to the suitability of accommodation offered to the applicant by way of a private rented sector offer under section 193 (section 202(1)(g)); or,

m. as to the suitability of accommodation offered to the applicant by way of a final accommodation offer or a final Part 6 offer under section 193A (section 202(1)(h)). Applicants can request a review of the suitability of accommodation whether or not they have accepted the offer.

19.4 An applicant must request a review before the end of the period of 21 days beginning with the day on which they are notified of the housing authority's decision. The housing authority may specify, in writing, a longer period during which a review may be requested.

19.5 In reviewing a decision, housing authorities will need to have regard to any information relevant to the period before the decision was made (even if only obtained afterwards) as well as any new relevant information obtained since the decision.

19.6 In the case of (i) above (a decision on whether the conditions are met for the referral of the applicant's case to another housing authority) the request for a review must be made to the notifying authority.

19.7 There is no right to request a review of a decision reached on an earlier review.

The Review Procedures Regulations

19.8 The *Allocation of Housing and Homelessness (Review Procedures) Regulations 1999* (SI 1999 No.71) have been revoked and replaced by *The Homelessness (Review Procedure etc.) Regulations 2018*. These regulations set out the procedures to be followed by housing authorities in carrying out reviews under Part 7.

Who may carry out the review

19.9 A review may be carried out by the housing authority itself which made the original decision or by someone acting as an agent of the housing authority. For further guidance on contracting out homelessness functions see Chapter 5. Where the review is to be carried out by an officer of the housing authority, the officer must not have been involved in the original decision, and they must be senior to the officer (or officers) who took that decision. Seniority for these purposes means seniority in rank or grade within the housing authority's organisational structure. The seniority provision does not apply where a committee or sub-committee of elected members took the original decision.

19.10 The same officer is able to carry out multiple reviews relating to a single case as long as they were not involved in the original decisions.

19.11 Where the decision under review is a joint decision by a notifying housing authority and the notified housing authority as to whether the conditions of referral of a case are satisfied, section 202(4) requires that the review should be carried out jointly by the two housing authorities.

19.12 Where the decision under review was taken by a person appointed by the notifying and notified authority, the review of that decision must also be carried out by a person appointed by the two authorities (see paragraph 19.25).

Written representations

19.13 An applicant is not required to provide grounds or reasons for challenging the housing authority's decision in their request for review, but should be invited to do so. The purpose of this is to invite the applicant to state their grounds for requesting a review (if they have not already done so) and to elicit any new information and particular issues that the applicant may have in relation to their request for a review.

19.14 Regulation 5 requires the housing authority to notify the applicant that they, or someone acting on their behalf, may make written representations in connection with the request for a review.

19.15 Regulation 5 also provides that the housing authority must notify the applicant that if they chose to make written representations where the request for review relates to:

a. the steps the housing authority is to take under sections 195(2) and 189B(2) which includes having regard to their assessment of the applicants' case in the personalised housing plan (during the prevention or relief duty) (section 202(1)(ba)(i) or (bc)(i)); or,

b. a notice bringing the prevention duty to an end (including where the reason for this is deliberate and unreasonable refusal to co-operate) (section 202(1)(bc)(ii) and (bb));

The representations must be made to the housing authority within two weeks from the day on which the applicant requested the review. The regulations provide that this two week period is open to be extended to a longer period if the applicant and reviewing authority agree in writing.

19.16 Applicants should already have been provided with copies of their assessments and personalised housing plan which they will be able to share with any legal representatives. Housing authorities should provide further copies or any further information requested as quickly as possible to minimise delays.

19.17 Where the request for a review falls outside of the decisions listed under 19.15, written representations should be made within a reasonable period to allow sufficient time for the housing authority to respond to the review within the prescribed timeframe (see paragraph 19.23).

19.18 The housing authority must also notify the applicant of the procedure to be followed in connection with the review (if this information has not been provided earlier).

19.19 Regulation 5 also provides that:

a. where the original decision was made jointly by the notifying and notified housing authorities under section 198(5), the notification should be made by the notifying housing authority; and,

b. where the original decision was made by a person appointed in accordance to the *Homelessness (Decisions on Referrals) Order 1998* (SI 1998 No.1578*)*, the notification should be made by the person appointed to carry out the review.

Oral hearings

19.20 Regulation 7 provides that in cases where a review has been requested, if the housing authority, authorities or person carrying out the review consider that there is a deficiency or irregularity in the original decision, or in the manner in which it was made, but they are minded nonetheless to make a decision that is against the applicant's interests on one or more issues, they should notify the applicant:

a. that they are so minded and the reasons why; and,

b. that the applicant, or someone acting on their behalf, may, within a reasonable period, make oral representations, further written representations, or both oral and written representations.

19.21 Such deficiencies or irregularities would include:

a. failure to take into account relevant considerations and to ignore irrelevant ones;

b. failure to base the decision on the facts;

c. bad faith or dishonesty;

d. mistake of law;

e. decisions that run contrary to the policy of Part 7 of the 1996 Act;

f. irrationality or unreasonableness; or,

g. procedural unfairness, e.g. where an applicant has not been given a chance to comment on matters relevant to a decision.

19.22 The reviewer must consider whether there is 'something lacking' in the decision, i.e. were any significant issues not addressed or addressed inadequately, which could have led to unfairness. An original decision could subsequently be rendered deficient because of intervening events which occurred between the date of the original decision and the review decision.

Period during which review must be completed

19.23 Regulation 9 provides that the period within which the applicant (or the applicant's authorised agent) must be notified of the decision on a review is:

a. three weeks from the day of the request for a review, or three weeks from the day on which representations are received, where the original decision falls within:
   - □ 202(1)(ba)(i)(reasonable steps to relieve homelessness);
   - □ 202(1)(bc)(i) (reasonable steps to prevent homelessness);
   - □ 202(1)(bc)(ii) (notice to bring the prevention duty to an end) or;
   - □ 202(1) (bb) (notice to bring the prevention duty to an end due to deliberate and unreasonable refusal to co-operate)

b. eight weeks from the day of the request for a review, where the original decision falls within:
   - □ Section 202(1)(a) (eligibility for assistance);
   - □ Section 202(1)(b) (notice as to what duty is owed to the individual);
   - □ Section 202(1)(ba)(ii) (notice to bring the relief duty to an end);
   - □ Section 202(1)(c) (referral to another local housing authority where the main housing duty is owed);
   - □ Section 202(1)(d) (the outcome of the decision on whether the conditions for referral are met);
   - □ Section 202(1)(e) (the outcome of the decision as to which local authority holds the case either the original local housing authority or the receiving local housing authority);
   - □ Section 202(1)(f) (suitability of accommodation)
   - □ Section 202(1)(g) (suitability of accommodation private rented sector) or;

□ Section 202(1)(bb) (notice to bring the relief duty to an end due to deliberate and unreasonable refusal to co-operate)

c. ten weeks, where the original decision falls within section 202(1)(d) and was made jointly by two housing authorities under section 198(5) (a decision on whether the conditions for referral are met);

d. twelve weeks, where the original decision falls within section 202(1)(d) and it was taken by a person appointed by the notifying authority and the notified authority in accordance with the Schedule to the *Homelessness (Decisions on Referrals) Order* (SI 1998 No.1578).

The regulations provide that in all of these cases it is open to the reviewing authority to seek the applicant's agreement to an extension of the prescribed period. Any such agreement must be given in writing.

Late representations

19.24 The regulations require the reviewer(s) to consider any written representations received subject to compliance with the requirement to notify the applicant of the decision on review within the period of the review, i.e. the period prescribed in the regulations or any extended period agreed in writing between the applicant and housing authority. It may in some circumstances be necessary to make further enquiries of the applicant about information they have provided. The reviewer(s) should be flexible about allowing such further exchanges, having regard to the time limits for reviews prescribed in the regulations. If this leads to significant delays, the applicant may be approached to agree an extension in the period for the review. Similarly, if an applicant has been invited to make oral representations and this requires additional time to arrange, the applicant should be asked to agree an appropriate extension.

Procedures for reviews of section 198(5) decisions made by an appointed person

19.25 Where the original decision under section 198(5) was made by a person appointed in accordance with the Schedule to the *Homelessness (Decisions on Referrals) Order 1998* (SI 1998 No.1578), regulation 6 requires that a review must be carried out by a person appointed by the notifying authority and the notified authority. If the authorities are unable to reach agreement on an appointed person, and where the review is of the original decision on whether the conditions for referral of a case under section 198(1) are met, the review must be carried out by a person appointed from the panel by the chair of the Local Government Association (LGA), or their nominee.

19.26 The appointed person must not be the same person as the person who made the original decision and they must comply with the relevant procedures set out in the regulations. Specifically, they must invite written representations from the applicant and send copies of these to the two housing authorities, inviting them to respond. The reviewer is also required to notify in writing the two housing

authorities of their decision on review and the reasons for it at least a week before the end of the prescribed period of twelve weeks (or of any extended period agreed with the applicant). This allows the housing authorities adequate time to notify the applicant of the decision before expiry of the period.

19.27 Paragraphs (2) – (4) of regulation 6 set out the procedure to be followed when the notifying and notified authority are unable to appoint a person to carry out a review by agreement. These provisions currently apply to decisions on notifications under section 198(1) at the point of the main housing duty. However local authorities are encouraged to also follow these arrangements in relation to the review of decisions on notifications under section 198(A1).

19.28 Paragraphs (2) – (4) of regulation 6 set out that if the two housing authorities fail to appoint a person to carry out the review within five working days of the date of the request for a review, the notifying housing authority must request the chair of the LGA or their nominee to appoint a person from the panel. The chair, in turn, must within seven days of that request appoint a person from the panel to undertake the review. The housing authorities are required to provide the reviewer with the reasons for the original decision, and the information on which that decision is based, within five working days of their appointment.

Notification of decision on review

19.29 Section 203 requires a housing authority to notify the applicant in writing of their decision on the review. The authority must also notify the applicant of the reasons for their decision where it:

a. confirms the original decision on any issue against the interests of the applicant;

b. confirms a previous decision to notify another housing authority under section 198(1) (referral of case under the main housing duty); or,

c. confirms a previous decision that the conditions for referral in section 198 (referral of case under the relief duty or main housing duty) are met in the applicant's case.

19.30 Where the review is carried out jointly by two housing authorities under section 198(5), or by a person appointed in accordance to the *Homelessness (Decisions on Referrals) Order 1998* (SI 1998 No.1578), the notification may be made by either of the two housing authorities concerned.

19.31 At this stage, the housing authority making the notification must advise the applicant of their right to appeal to the County Court under section 204 against a review decision on a point of law, and of the period in which to appeal.

Powers to accommodate pending a review

19.32 Under section 188(2A), where an applicant refuses a final accommodation offer or a final Part 6 offer in the relief stage and requests a review under section 202(1)(h) of the housing authority's decision as to the suitability of the accommodation offered, the relief duty to the applicant continues to apply despite section 193A(2), and the housing authority must continue to provide interim accommodation for applicants in priority need until the decision on the review has been notified to the applicant.

19.33 Sections 188(3), 199A (6) and 200(5) give housing authorities powers to secure accommodation for certain applicants pending the decision on a review. For further guidance on powers to secure accommodation see Chapter 15.

Prevention and relief activity following a review decision

19.34 In circumstances where the outcome of one of the following decisions are in the applicants favour, review officers are recommended to use their discretion to assess the impact of the failure across the whole period of the relevant duty and make recommendations which seek to remedy this:

a. the decision on reasonable steps in the personalised housing plan; or,

b. the decision to issue a notice bringing the prevention or relief duties to an end.

19.35 For example, if an applicant's personalised housing plan was completed 3 days after the start of the prevention or relief duty and a review found that steps were unreasonable, the review officer may recommend that the authority work with the applicant to agree new steps and resume prevention or relief activity for a further 53 days.

19.36 Where an applicant requests a review of the authority's decision as to whether the conditions are met for the referral of their case to another housing authority at the relief stage the relief duty will rest with the notified authority whilst the review is conducted. If the review officer decides that the conditions for referral were not met and that the applicant should not have been referred to another housing authority, they are encouraged to make recommendations based on the following considerations:

a. the reasonable wishes of the applicant;

b. the relief activity that has taken place to date by both or either authorities;

c. how relevant this activity is in the geographical context of the notifying authority given the successful review decision; and,

d. whether the applicant is in priority need and therefore if they should directly proceed to the main duty after the 56 day period.

Appeals to the County Court

19.37 Section 204 provides an applicant who has requested a section 202 review with the right of appeal on a point of law to the County Court if:

a. they are dissatisfied with the decision on a review; or,

b. they are not notified of the decision on the review within the time prescribed in regulations made under section 203.

19.38 An appeal must be brought by an applicant within 21 days of:

a. the date on which they are notified of the decision on review; or,

b. the date on which they should have been notified (i.e. the date marking the end of the period for the review prescribed in the regulations, or any extended period agreed in writing by the applicant).

19.39 The court may give permission for an appeal to be brought after 21 days, but only where it is satisfied that:

a. (where permission is sought within the 21 day period), there is good reason for the applicant to be unable to bring the appeal in time; or,

b. (where permission is sought after the 21 day period has expired), there was a good reason for the applicant's failure to bring the appeal in time and for any delay in applying for permission.

19.40 On an appeal, the County Court is empowered to make an order confirming, quashing or varying the housing authority's decision as it thinks fit. It is important, therefore, that housing authorities have in place review procedures that are robust, fair, and transparent.

Power to accommodate pending an appeal to the County Court

19.41 Section 204(4) gives housing authorities the power to accommodate certain applicants during the period for making an appeal, and pending determination of the appeal and any subsequent appeal. For further guidance on powers to secure accommodation see Chapter 15.

Local Government and Social Care Ombudsman

19.42 Applicants may complain to the Local Government and Social Care Ombudsman if they consider that they have been caused injustice as a result of maladministration in relation to their application for assistance under Part 7 by a housing authority. The Ombudsman may investigate the way a decision has been made, but may not question the merits of a decision properly reached. For example, maladministration would occur where a housing authority:

a. took too long to do something;

b. did not follow their own rules or the law;

c. broke their promises;

d. treated the applicant unfairly; or,

e. gave the applicant the wrong information.

19.43 There are some matters an Ombudsman cannot investigate. These include:

a. matters the applicant knew about more than twelve months before they wrote to the Ombudsman or to a councillor, unless the Ombudsman considers it reasonable to investigate despite the delay;

b. matters about which the applicant has already taken court action against the housing authority, for example, an appeal to the County Court under section 204; and,

c. matters about which the applicant could go to court, unless the Ombudsman considers there are good reasons why the applicant could not reasonably be expected to do so.

19.44 Where there is a right of review, and/or a complaints procedure within the housing authority, the Ombudsman would expect an applicant to pursue their rights through these arrangements before making a complaint. If there is any doubt about whether the Ombudsman can look into a complaint, the applicant should seek advice from the Ombudsman's office.

Chapter 20: Protection of personal property

20.1 This chapter provides guidance on the duty and powers housing authorities have to protect the personal property of an applicant.

20.2 Under section 211(1) and (2), where a housing authority has become subject to a duty to an applicant under specified provisions of Part 7 and it has reason to believe that:

a. there is a danger of loss of, or damage to, the applicant's personal property;

b. because the applicant is unable to protect it or deal with it; and,

c. no other suitable arrangements have been, or are being, made,

then, whether or not the housing authority is still subject to such a duty, it must take reasonable steps to prevent the loss of, or to prevent or mitigate damage to, any personal property of the applicant.

20.3 The specified provisions are:

a. section 188 (interim duty to accommodate);

b. section 189B (initial duty owed to all eligible persons who are homeless); and,

c. section 190, section 193 or section 195 (duties to persons found to be homeless or threatened with homelessness); or section 200 (duties to an applicant whose case is considered for referral or is referred).

20.4 In all other circumstances, housing authorities have a power to take any steps they consider reasonable to protect in the same way, an applicant's personal property (section 211(3)).

20.5 Section 212 makes provisions supplementing section 211. For the purposes of both section 211 and section 212, the personal property of an applicant includes the personal property of any person who might reasonably be expected to reside with them (section 211(5)) and section 212(6)).

20.6 A danger of loss or damage to personal property means that there is a likelihood of harm, not just that harm is a possibility. Applicants may be unable to protect their property if, for example, they are ill or are unable to afford to have it stored themselves.

20.7 Under section 212(1), in order to protect an applicant's personal property, a housing authority can enter, at all reasonable times, the applicant's current or former home, and deal with the property in any way which seems reasonably necessary.

20.8 Where a housing authority does take steps to protect personal property it must take reasonable care of it and deliver it to the owner when reasonably requested

to do so. Housing authorities may find it helpful to take a log of the applicant's personal property as part of this process.

20.9 The applicant can request the housing authority to move their property to a particular location. If the housing authority considers that the request is reasonable, they may discharge their responsibilities under section 211 by doing as the applicant asks. Where such a request is met, the housing authority will have no further duty or power to protect the applicant's property, and it must inform the applicant of this consequence before complying with the request (section 212(2)).

20.10 Housing authorities may impose conditions on the assistance they provide (section 211(4)). Conditions may include making a reasonable charge for storage of property and reserving the right to dispose of property in certain circumstances specified by the housing authority – e.g. if the applicant loses touch with them and cannot be traced after a certain period (section 211(4)).

ii. Where a request to move personal property to another location is either not made or not carried out, the duty or power to take any action under section 211 ends when the housing authority believes there is no longer any danger of loss or damage to the property because of the applicant's inability to deal with or protect it (section 212(3)). This may be the case, for example, where an applicant recovers from illness or finds accommodation where they are able to place their possessions, or becomes able to afford the storage costs themselves. However, where the housing authority has discharged the duty under section 211 by placing property in storage, it has a discretionary power to continue to keep the property in storage. Where it does so, any conditions imposed by the housing authority continue to apply and may be modified as necessary.

iii. Where the housing authority ceases to be under a duty, or ceases to have a power, to protect an applicant's personal property under section 211, it must notify the applicant of this and give the reasons for it. The notification must be delivered to the applicant or sent to the applicant's last known address (section 212(5)). For further guidance on notifications see Chapter 18.

Chapter 21: Domestic abuse

21.1 This chapter provides guidance on providing homelessness services to people who have experienced or are at risk of domestic abuse.

Priority need

21.2 A person who is homeless as a result of being a victim of domestic abuse has a priority need as set out in s189 of the 1996 Act. Section 193(2) of the 1996 Act requires housing authorities to secure that accommodation is available for occupation for applicants who have a priority need for accommodation, and as set out in s176 of the 1996 Act, the accommodation must be available for occupation by the applicant together with any other person who normally resides with them as a member of the family, or might reasonably be expected to reside with them.

Understanding domestic abuse

21.3 Domestic abuse is 'domestic' in nature if the perpetrator is a person who is personally connected with the victim. This does not require the individuals to be living together. In most cases domestic abuse is carried out by a partner or ex-partner, however it can also be carried out by other people who come under the definition of "personally connected" outlined at section 21.9. Domestic abuse is not limited to physical violence or confined to instances within the home and can consist of an incident or pattern of incidents.

21.4 Domestic abuse can affect anyone regardless of their age, sex, gender identity or reassignment, race, religion, class, sexual orientation and marital status. Housing authorities should bear in mind that the provisions of the Equality Act 2010 for public authorities apply to policies, practice and procedures relating to homelessness and domestic abuse, and should take this into account when designing and delivering services.

21.5 Housing authorities must follow the cross-government definition of domestic abuse set out in the Domestic Abuse Act 2021 when designing and delivering services.

Definition

21.6 The 2021 Act definition is set out below. For the purpose of the legal definition "A" is referred to as the perpetrator and "B" is referred to as the victim.

21.7 Behaviour of a person "A" towards another person "B" is domestic abuse if "A" and "B" are each aged 16 years, or over, are "personally connected" to each other and the behaviour is abusive. A's behaviour may be behaviour "towards" B despite the fact that it consists of conduct directed at another person (for example, B's child). Behaviour is "abusive" if it consists of any of the following:

(a) physical or sexual abuse

(b) violent or threatening behaviour

(c) controlling or coercive behaviour - controlling behaviour is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

Coercive behaviour is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.

(d) economic abuse – economic abuse means any behaviour that has a substantial adverse effect on B's ability to - (a) acquire, use or maintain money or other property, or (b) obtain goods or services.

(e) psychological, emotional or other abuse

21.8 For examples of abusive behaviour outlined above please refer to the Domestic Abuse Guidance Framework. Please note that the guidance framework does not seek to be exhaustive and that housing authorities must use their judgement as to whether a behaviour constitutes domestic abuse.

21.9 In the context of defining domestic abuse, the Domestic Abuse Act 2021 states that two people are 'personally connected' to each other if any of the following applies -

(a) they are, or have been, married to each other;

(b) they are, or have been, civil partners of each other;

(c) they have agreed to marry one another (whether or not the agreement has been terminated);

(d) they have entered into a civil partnership agreement (whether or not the agreement has been terminated);

(e) they are, or have been, in an intimate personal relationship with each other;

(f) they each have, or there has been a time when they each have had, a parental relationship in relation to the same child;

(g) they are relatives.

For the purposes of subsection (f) a person has a parental relationship in relation to a child if— (a) the person is a parent of the child, or (b) the person has parental responsibility for the child.

In this section— "child" means a person under the age of 18 years; "civil partnership agreement" has the meaning given by section 73 of the Civil Partnership Act 2004; "parental responsibility" has the same meaning as in the Children Act 1989; "relative" has the meaning given by section 63(1) of the Family Law Act 1996.

21.10 So-called 'Honour-based' abuse (HBA) is a crime or incident which has or may have been committed to protect or defend the perceived honour of the family and/or community, or when individuals try to break from constraining 'norms' of behaviour that their community is trying to impose. HBA can cover a range of circumstances, not all of which represent domestic abuse, for example if the victim and perpetrator are not personally connected. However, HBA will typically be carried out by a member or members of the family and is likely to involve behaviours specified in the statutory definition of domestic abuse.

21.11 An important factor in ensuring that an authority develops a strong and appropriate response to domestic abuse is understanding what domestic abuse is, the context in which it takes place in and what the impacts are on victims; as well as how the impacts may be different on different groups of people. Specialist training for staff and managers will help them to provide a more sensitive response and to identify, with applicants, housing options which are safe and appropriate to their needs. Housing authorities may consider training delivered by specialist domestic abuse organisations and are strongly encouraged to provide risk assessment training to support staff and managers with responsibility for assessing applications from victims of domestic abuse.

Identifying abuse and preventing homelessness

21.12 Housing authorities should have policies in place to identify and respond to domestic abuse. Alongside their role in tackling homelessness authorities should take an active role in identifying victims and referring them for help and support. They are key partners in local domestic abuse partnerships and should be represented at their local multi-agency risk assessment conference (MARAC).

21.13 The MARAC leads multi-agency safety planning for high-risk victims of domestic abuse. It brings together the police, independent domestic abuse advisers, children's social services, health, social landlords and other relevant agencies. They share information and write a safety plan for each victim and family, which may include actions by any agency present. The housing authority should be consistently represented at the MARAC and encourage relevant social landlords to also be represented.

21.14 Victims can experience many incidents of abuse before calling the police or reporting it to another agency. Housing providers may be able to identify abuse at

earlier stages and should consider how they can best provide support to their residents. By understanding the indicators of domestic abuse through training and professional development, housing officers can increase their confidence to speak to people experiencing abuse, risk assess and safety plan alongside them.

21.15 Housing authorities should also be alert to the wider role they play in ensuring victim safety. Procedures should be in place to keep all information on victims safe and secure. In many cases, particularly where extended family members or multiple perpetrators may be involved, for example in female genital mutilation, forced marriage and so-called honour-based violence cases, perpetrators go to great lengths to seek information on victims.

21.16 The housing authority must be alert to the possibility of employees being, or having links to, perpetrators. Housing authorities should not disclose information about an applicant to anybody outside the organisation without consent, and should be particularly alert to the need to maintain confidentiality wherever domestic abuse is involved. In some circumstances, it may be necessary to restrict access in cases where abuse is disclosed to only named members of staff. Housing authorities should also consider how they flag case files so they can identify those victims who have been referred to the MARAC and may present as homeless.

21.17 Households at risk of domestic abuse often have to leave their homes and the area where they have lived. There is a clear need for victims of abuse and their children to be able to travel to different areas in order for them to be safe from the perpetrator, and housing authorities should extend the same level of support to those from other areas as they do to their own residents.

Duties to those homeless or threatened with homelessness

21.18 Section 177(1) of the 1996 Act provides that it is not reasonable for a person to continue to occupy accommodation if it is probable that this will lead to violence or domestic abuse against:

a. the applicant;
b. person who normally resides as a member of the applicant's family; or,
c. any other person who might reasonably be expected to reside with the applicant.

21.19 Section 177(1A) provides that 'violence' means violence from another person or threats of violence from another person which are likely to be carried out. 'Domestic abuse' has the meaning given by section 1 of the Domestic Abuse Act 2021 outlined above in section 21.6. Domestic abuse is not confined to instances within the home.

Assessing homelessness

21.20 Housing Authorities will need to assess whether the applicant is a victim of domestic abuse or if they are at risk of domestic abuse. Section 177 makes clear that it is not reasonable for a person to continue to occupy accommodation if it is probable that this will lead to violence or domestic abuse against an individual, or against a person who would normally or reasonably be expected to live with them.

21.21 Housing authorities should seek to obtain an account of the applicant's experience to assess whether the behaviour they have experienced is abusive or whether they would be at risk of domestic abuse if they continued to occupy their accommodation. The authority should support the victim to outline their experience and make an assessment based on the details of the case. Housing authorities should refer to the Domestic Abuse Guidance Framework[7]DASH risk assessment to ensure they support the applicant appropriately. Where an applicant's experience has been documented already by a domestic abuse service - where possible, housing authorities should utilise existing statements to avoid asking the victim to re-live their experience unnecessarily.

21.22 Several behaviours which may constitute domestic abuse could also occur as a result of a non-violent relationship breakdown, housing authorities will need to consider on a case-by-case basis whether the behaviour being reported is domestic abuse, taking account of the circumstances of each individual case, utilising the Domestic Abuse Statutory Guidance framework.

21.23 The Power and Control Wheel outlined in the Domestic Abuse Statutory Guidance Framework gives examples of common behaviours and techniques perpetrators use to coerce or control victims of domestic abuse. Perpetrators may also seek to claim some of the abusive behaviours were carried out against them. Housing Authorities should again refer to the section on 'perpetrator tactics' in the domestic abuse guidance framework to better familiarise themselves with the ways in which perpetrators may seek to manipulate the situation and public bodies for their own gain.

21.24 Housing authorities may wish to seek further evidence where it is available and appropriate to do so, it is essential that inquiries do not provoke further violence and abuse. Housing authorities **should not approach the alleged perpetrator**, since this could generate further violence and abuse. With consent from the applicant, the housing authorities may, however, wish to seek information from friends and relatives of the applicant, social services, health professionals, MARACs, a domestic abuse support service or the police, as appropriate. This is not an exhaustive list and there may be other sources of evidence that would be appropriate. Housing authorities are not required to attempt to gather evidence from all of the above parties and should contact only those it judges are best able to provide supporting evidence in each case (with no risk to the safety of the applicant). Housing authorities should seek consent from the victim before approaching family or friends as the abuse may be experienced from multiple perpetrators, particularly for those experiencing abuse from family members. In

some cases, corroborative evidence of abuse may not be available, for example, because there were no adult witnesses and/or the applicant was too frightened or ashamed to report incidents to family, friends or the police. The housing officer may be the first person that the victim has confided in. **Housing authorities should not have a blanket approach toward domestic abuse which requires corroborative or police evidence to be provided**.

21.25 Section 188(1) of the 1996 Act – the interim accommodation duty requires housing authorities to secure that accommodation is available for an applicant if they have reason to believe that the applicant **may** be homeless, eligible for assistance and have a priority need. If there is evidence that would give the authority reason to believe the applicant may be homeless as a result of domestic abuse the authority should make interim accommodation available to the applicant immediately whilst they undertake their investigations.

21.26 An assessment of the likelihood of a threat of violence or abuse being carried out should not be based on whether there has been actual violence or abuse in the past. Assessments must be based on the facts of the case and should be devoid of any value judgements about what an applicant should or should not do, or should or should not have done, to mitigate the risk of any violence and abuse.

21.27 Housing authorities should seek to be flexible in their approach and maximise options available to victims of domestic abuse to make a homelessness application. For some victims it might not be safe for them to approach the housing authority themselves or they may find it too daunting to do so.

21.28 Where appropriate, housing authorities should accept referrals from concerned parties by allowing someone else to make the initial approach to the housing authority on behalf of a victim, provided the individual has the victim's consent. Housing authorities must then **safely** verify with the victim that they wish to make a homelessness application, gaining the victim's consent to start the application and ensuring any information provided by a third party on their behalf accurately reflects their choices and needs. For example, this might involve, with the support of the referring party, arranging for an officer to meet at an agreed safe space such as the local school/doctor's surgery or involving domestic abuse support services. Housing authorities should be aware that the victim will be best placed to decide what is safe for them and should not be forced to do anything which they believe could jeopardise their safety.

21.29 Housing authorities should be particularly careful when making contact with a victim to ensure that they do not alert a perpetrator to the application, and so put the victim in danger. Where an authority is unable to safely verify that the victim wishes to make an application they will be unable to proceed, but may keep the referral on hold for a period of time to allow the victim to make contact to pursue the application.

21.30 Flexibility in how victims can make a homelessness application is key, housing authorities should facilitate phone/online homelessness applications where most appropriate to guarantee the safety of the victim. It should also be made clear in local communications that households making a homeless application are able to bring a friend or specialist domestic abuse support worker, such as an Independent Domestic Violence Advisor (IDVA), to any appointments to support them in making their application.

21.31 There may be occasions where victims of abuse seek emergency assistance having left behind ID and other documentation that may be required to support their application. Housing authorities should work with police; domestic abuse agencies (as appropriate) and the applicant to ensure that essential documentation can be recovered or replaced without putting the applicant at further risk of abuse. **The victim must not be asked to return to their property to collect documentation if there is any chance that it could put them in danger.**

21.32 In many cases involving violence and abuse, the applicant may be in considerable distress and an officer trained in dealing with the particular circumstances should conduct the interview. Applicants should be given the option of being interviewed by an officer of the same sex if they so wish. Housing authorities should offer to arrange translation services for victims for whom English is not their first language particularly given the depth and sensitivity of enquiries around abuse, and should avoid asking family members to translate, except where the victim has indicated that this is their preference. Housing authorities should be aware that this may be the first time a victim has disclosed their abuse and that the period during which a victim is planning or making their exit, is often the **most dangerous time** for them and any children they have.

21.33 The following services are among those subject to the duty to refer, meaning they are required to refer service users in England they consider may be homeless or threatened with homelessness within 56 days to a housing authority, with the service user's consent:

a. emergency departments;
b. urgent treatment centres;
c. hospitals in their function of providing in patient care; and,
d. adults and children's social care services.

For further guidance on the duty to refer see Chapter 4.

Prevention and relief duties

21.34 Following an application for assistance under Part 7 of the 1996 Act, whether an applicant is threatened with homelessness or is actually homeless will be a matter for the housing authority to assess taking into account all of the relevant circumstances. For example, a person at risk of abuse may be threatened with homelessness because a perpetrator is soon to be released from custody (and

so the person is likely to become homeless within 56 days); but would be actually homeless if the perpetrator was in the community and presented a risk to them at their home (and so it is not reasonable for the person to continue to occupy the accommodation).

21.35 When developing a personalised housing plan the housing authority should be particularly sensitive to an applicant's wishes and respectful of their judgement about the risk of abuse, unless there is evidence to the contrary. For further guidance on assessments and personalised housing plans see Chapter 11. Victims should be allowed sufficient time and space to absorb and understand the options available to them.

21.36 The reasonable steps that a housing authority might take to help an applicant to retain or secure safe accommodation might include provision of sanctuary scheme or other security measures, assistance to find alternative accommodation, or help to access legal remedies such as injunctions where these might be effective. Single people might also be assisted to access supported housing, or helped to gain more support from family and friends through the intervention of the housing authority.

21.37 Sanctuary schemes can prevent homelessness by enabling victims to remain safely in their home where it is their choice, and it is safe to do so. A sanctuary comprises enhanced security measures in the home which delay or prevent a perpetrator from gaining entry into and within a property, and allow time for the police to arrive. Use of sanctuary is not appropriate if the perpetrator lives at, or retains a legal right to enter the home, or if the victim continues to be at risk in the vicinity around the home.

21.38 Housing authorities may wish to inform applicants of the option of seeking an injunction against the perpetrator. Where applicants wish to pursue this option, authorities should inform them that they should seek legal advice and that they may be eligible for legal aid.

21.39 Housing authorities should recognise that injunctions ordering a person not to molest (non-molestation orders), or not to live in the home or enter the surrounding area (occupation orders) or not behave in a way in attempt to force an individual to marry (forced marriage protection order) may not always be effective in deterring some perpetrators from carrying out further violence, abuse or incursions, and applicants may not always have confidence in their effectiveness. Consequently, applicants should not be expected to return home on the strength of an injunction. To ensure applicants who have experienced actual or threatened violence get the support they need, authorities should inform them of appropriate specialist organisations in the area as well as agencies offering counselling and support.

21.40 When dealing with domestic abuse and violence within the home, where the authority is the landlord, housing authorities should consider the scope for evicting the perpetrator and allowing the victim to remain in their home. However,

where there would be a probability of abuse if the applicant continued to occupy their present accommodation, the housing authority must treat the applicant as homeless and should not expect them to remain in, or return to, the accommodation. **In all cases involving abuse the safety of the applicant and their household should be the primary consideration at all stages of decision making as to whether or not the applicant remains in their own home.**

Providing suitable accommodation

21.41 There are a number of potential accommodation options for victims of domestic abuse, and housing authorities will need to consider which are most appropriate for each person on a case by case basis taking into account their circumstances and needs. This may include safe temporary accommodation and/or a managed transfer. Housing authorities may, for example, provide temporary accommodation whilst action is taken to exclude or to arrest and detain a perpetrator. Opportunities to plan for victims to remain or return to their homes are much improved by housing authorities working with partners in the MARAC to reduce risk.

21.42 For victims at risk from highly dangerous perpetrators, refuges will usually be the most appropriate choice. Refuges provide key short term, intensive support for those who flee from abuse. Given the intensity of the support and the vulnerability of the victims, attention should be paid to the length of time they spend in a refuge. Refuges are not simply a substitute for other forms of temporary accommodation. The housing authority should work with the refuge provider to consider how long a person needs to stay before the provision of other accommodation (which may be temporary in the absence of settled accommodation) may be more appropriate, potentially with floating support if needed.

21.43 Account will need to be taken of any social considerations relating to the applicant and their household that might affect the suitability of accommodation offered to them to prevent or relieve homelessness, or under the main housing duty. Any risk of violence or racial harassment in a particular locality should be taken into account. Where domestic abuse is involved and the applicant is not able to stay in the current home, housing authorities may need to consider the need for accommodation that would not be found by the perpetrator (which may involve an out of district placement) and which has security measures and appropriately trained staff to protect the occupants. Housing authorities may consider implementing a reciprocal agreement with other housing authorities and providers to facilitate out of area moves for victims of domestic abuse.

21.44 Housing authorities should consider a range of accommodation options to ensure services are accessible, inclusive and responsive to the needs of individual applicants. They should consider whether an applicant could be at increased risk

of harassment, abuse, exploitation or retraumatisation in a particular setting, whether they require accommodation that meets disability-related needs, or whether accommodation with shared facilities would be appropriate. For example, a trans applicant who has experienced domestic abuse or hate crime may have particular safety concerns in some forms of communal accommodation, which housing authorities should take into account when assessing suitability. Housing authorities may also consider whether single-sex accommodation is appropriate, where this is required and available. References to sex should be interpreted consistently with the Equality Act 2010. Some victims may find it traumatic to share facilities with members of the opposite sex.

21.45 Part 4 of the Domestic Abuse Act 2021 introduced a support in safe accommodation duty local authorities must comply with. Homelessness legislation is independent of the support in safe accommodation duty and housing authorities must continue to meet the suitability requirements for accommodation under Part 7 of the Housing Act 1996. However, housing authorities may wish to consider the descriptions of relevant safe accommodation in the draft Regulations and statutory guidance for victims who are homeless as a result of domestic abuse.

Local connection referrals

21.46 A housing authority cannot refer an applicant to another housing authority where they have a local connection if that person or any person who might reasonably be expected to reside with them would be at risk of domestic abuse in that other district. The housing authority is under a positive duty to enquire whether the applicant would be at such a risk and, if they would, it should not be assumed that the applicant will take steps to deal with the threat of abuse. For further guidance on local connection see Chapter 10.

21.47 Housing authorities should also consider assisting one another in cases where victims of domestic abuse are at risk of violence in their area as outlined in 16.15.

21.48 Section 198(3) states that “domestic abuse” has the meaning given by section 1 of the Domestic Abuse Act 2021.

Eligibility

21.49 People who have no recourse to public funds are not generally eligible for homelessness assistance. However, the Destitute Domestic Violence Concession supports those who have entered or stayed in the UK as a spouse, unmarried partner, same-sex or civil partner of a British Citizen, or settled citizen and this relationship has permanently broken down due to domestic violence and abuse. A victim may be eligible if:

a. they came to the UK or were granted leave to stay in the UK as the spouse or partner of a British Citizen or someone settled in the UK;

b. their relationship has permanently broken down due to domestic violence and abuse.

21.50 They can then apply to the Home Office for limited leave to remain (three months) under the Destitute Domestic Violence Concession to enable them to access public funds and advice, whilst they prepare and submit an application for indefinite leave to remain (or to make alternative arrangements).

Chapter 22: Young people, including those with care experience

22.1 This chapter provides guidance on how housing authorities should exercise their duties under Part 7 of the Housing Act 1996 in relation to children aged 16 and 17, and young people aged 18 to 24 who may be homeless or threatened with homelessness. This chapter also provides guidance on corporate parenting responsibilities and the additional duties that are owed to care leavers who are homeless or threatened with homelessness.

Corporate parenting duties

22.2 Local authorities have duties and powers to assist young people who are leaving and have left local authority care. As a corporate parent to all children in care and care leavers, all parts of a local authority, including a housing authority, must have regard to the need:

a. to act in the best interests, and promote the physical and mental health and well-being, of those children and young people;

b. to encourage those children and young people to express their views, wishes and feelings;

c. to take into account the views, wishes and feelings of those children and young people;

d. to help those children and young people gain access to, and make the best use of, services provided by the local authority and its relevant partners;

e. to promote high aspirations, and seek to secure the best outcomes, for those children and young people;

f. for those children and young people to be safe, and for stability in their home lives, relationships and education or work; and,

g. to prepare those children and young people for adulthood and independent living.

Personal advisers and pathway plans for care leavers

22.3 There is a duty on children's services authorities to appoint a Personal Adviser to provide support to care leavers until they reach their 25th birthday (except where the young person no longer wants a Personal Adviser after the age of 21). See section 23D and section 23CZB of the Children Act 1989. The support provided by Personal Advisers should be based on the needs of the young person as set out in their statutory Pathway Plan. This may include support from a housing authority.

22.4 Any joint working arrangements between a children's services authority and a housing authority for care leavers' transitions to independent living should include ensuring the delivery of effective preparation for independence with planned, sustainable moves into supported or independent accommodation. Local processes and/or practices should be designed to prevent homelessness and should not require a homelessness application to be made in order to secure settled accommodation for a young person leaving care.

Joint working arrangements

22.5 Housing authorities should work with children's services, social care, education, health, youth justice, voluntary, community and faith sector organisations, and other relevant services where it is necessary to prevent or relieve homelessness and to support a young person to secure and sustain accommodation. Joint working arrangements should be designed to support timely referrals, information sharing, and clear responsibilities between services, underpinned by locally agreed joint protocols.

16 and 17 year olds

22.6 The specific duties towards 16 and 17 year olds who are at risk of homelessness or who are homeless, and the legal duties children's services authorities and housing authorities have towards them are set out in the Government's statutory guidance: 'Provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation.'

22.7 The Children Act 1989 (section 20) places a duty on children's services authorities to accommodate a child in need, and in almost all circumstances a homeless 16-17 year old would be a child in need. For further information, see Chapter 8.

22.8 A young person who has left care after the age of 16, and who spent at least 13 weeks in care since their 14th birthday, will be a relevant child who continues to be owed duties under the Children Act . A relevant child who is homeless should be supported to access assistance from Children's Services.

Care leavers

22.9 The Secretary of State and the Secretary of State for Education expect all housing authorities, children's services authorities and other relevant departments within local authorities, to develop and publish joint housing protocols and procedures to support and assist care leavers in their transition to adulthood and independent living, and to ensure collective responsibility from each department in providing corporate parenting support to young people leaving care.

22.10 A joint protocol should cover arrangements for achieving early, planned, and supportive transitions to suitable accommodation and independent living; identifying homelessness risk early and acting to prevent it; provide a quick, safe, joined up multi-agency response for care leavers who do become homeless; and

have in place joint arrangements for robust scrutiny prior to any decision that may result in the loss of accommodation. Protocols should ensure that housing authorities are involved at an early stage where a care placement, supported accommodation placement or other accommodation arrangement is due to end. Protocols should also set out arrangements for responding where a care leaver's status, entitlements or support arrangements change whilst they are accommodated, ensuring continued joint planning to prevent gaps in accommodation or support.

22.11 Under Section 2 of the Children and Social Work Act 2017, a local authority must consult on and publish a local offer for its care experienced young people. From 30 September 2026, this must set out how the local authority supports care experienced young people to find and keep suitable accommodation, and what help is available to prevent homelessness. Please refer to Local offer guidance - GOV.UK.

22.12 For further guidance on joint working arrangements and the local offer, see Joint housing protocols for care leavers: good practice advice.

Providing Advice

22.13 The Housing Act 1996 section 179 sets out the duty on local housing authorities to provide access to free housing and homelessness advice, designed to meet the needs of local residents. When designing advice services that are appropriate and accessible, housing authorities should consider the ways in which young people access advice and support relevant to their needs. For further guidance on the provision of advice and information on homelessness see Chapter 3.

Care leavers

22.14 Advisory services provided by housing authorities under section 179 must be designed to meet the needs of care leavers in their district (section 179(2)(b)). Housing authorities should work with children's services authorities and consult with care leavers themselves to ensure the advice and information is:

a. designed and delivered in an appropriate format for the age of the client group;

b. available through communication channels which care leavers are most likely to access; and

c. understood by children's services authority staff.

22.15 It is recommended that housing options advice be made available to young people preparing to leave care to help them to make informed choices and avoid becoming homeless. Housing authorities should work in conjunction with children's services to ensure young people are provided with information, as required by the local offer duty (Local offer guidance - GOV.UK), which should be clear on the support available to them to secure safe, stable and suitable accommodation and what help is available to them to prevent homelessness or

respond to housing crises early. Housing authorities may wish to provide training and information to social workers, Personal Advisers and others who have responsibility to support looked after young people, to ensure that the most up to date and accurate information on housing options is available to them.

Applications, assessments and personalised housing plans

22.16 When managing requests for housing and homelessness support from young people, housing authorities should:

a. Have regard to the fact that age, limited life experience, family and relationship breakdown, family rejection or relationship conflict related to their sexual orientation or gender identity, domestic abuse, childhood trauma, or experience in care may affect their ability to take action to help prevent or relieve their homelessness, and to manage accommodation;

b. ensure young people are informed of, and able to access, independent advocacy where available. Interpretation services should be used where needed; and

c. wherever possible, have a named homelessness officer who maintains contact with the young person, explains decisions and required actions clearly, and, where appropriate and with their consent, involves trusted adults and relevant support services, including voluntary, community and faith organisations that support them.

22.17 Local authorities should recognise that young people may not always have immediate access to formal identification or written evidence, particularly where they have left accommodation in crisis and unable to obtain documents or supporting information held by parents or family members. This may include circumstances where a young person has left home as a result of domestic abuse, family breakdown, or family rejection. Housing Authorities should take a reasonable and proportionate approach when requesting information to support an application, drawing on information from relevant support services or trusted adults where appropriate, and young people should be given reasonable time and support to provide information.

22.18 When carrying out an assessment and developing a personalised housing plan for a young person, housing authorities should take account of their age, maturity, and any safeguarding risks, including experience of abuse or trauma. Housing authorities should consider whether a young person's homelessness, presented as arising from family breakdown or exclusion, may involve domestic abuse, which will have implications for their vulnerability, safety, support needs and housing options. Depending on the circumstances, it may not be appropriate for the young person to remain in their current home, pursue family reconciliation or remain in the local area. For further guidance on personalised housing plans, see Chapter 11.

Care leavers

22.19 When a young person aged between 18 and 24 approaches directly or is referred to a housing authority, if it is established that they are a care leaver or the young person says they are a care leaver, then the children's services authority which has responsibility for them should be informed as soon as possible, with consent from the young person, to enable children's services to conduct a review of their Pathway Plan.

22.20 Where there is a duty to assess a care leaver's housing and other support needs and develop a personalised housing plan, arrangements should be in place to enable the Personal Adviser, other practitioners, trusted adults, and relevant voluntary, community and faith sector organisations involved in supporting the young person to be involved in the assessment process with the young person's consent. Where there is no agreed local working arrangement, or where the young person has been looked after by a children's services authority which is not part of local joint protocol arrangements, the housing authority must continue without delay with the duties owed to the young person under Part 7 of the 1996 Act.

22.21 Where a care leaver has a personalised housing plan this should be informed, by their Pathway Plan (section 23C(3)(b), Children Act 1989). The Secretary of State considers it appropriate for housing authorities to involve a young person's Personal Adviser in assessing their needs and circumstances and developing a personalised housing plan that is appropriate to them. The young person's consent must be obtained, and it would be advisable to seek their consent for the Personal Adviser to continue to be informed and involved in efforts to prevent or relieve homelessness. The Personal Adviser may also be requested to take actions to deliver the personalised housing plan.

22.22 Local authorities should consider how they manage situations where a care leaver is at risk of eviction from local authority owned or managed accommodation. This may include an internal review and escalation prior to any decision that may result in the loss of that accommodation, to ensure that all reasonable steps have been taken to sustain the tenancy, appropriate support has been offered and that the potential impact on the young person's welfare and future housing stability has been properly considered. In developing these arrangements, local housing authorities and children's services should work together, having regard to their corporate parenting duties. For further guidance, see Joint housing protocols for care leavers: good practice advice.

22.23 Where a care leaver has been accommodated under a homelessness duty, housing authorities may need to take action through enforcement powers and legal remedies where serious antisocial behaviour, criminality or risks to others arise. Individual cases should be managed through coordinated multi-agency risk planning, involving housing, children's services and wider partners as appropriate, with a focus on earlier intervention, safeguarding, trauma-informed support, tenancy sustainment and access to appropriate accommodation and support where needed.

22.24 There are specific legal requirements in relation to local connection for care leavers (section 199(8) to (11). For further guidance on local connection see Chapter 10.

22.25 Subject to arrangements for consent, where a housing authority is concerned that a care leaver may not be co-operating with the required steps set out in the personalised housing plan this should be shared as soon as possible with the Personal Adviser to enable joint early action to remind the young person of the actions to be taken and the consequences of not doing so. For further guidance on deliberate and unreasonable refusal to co-operate see Chapter 14. Joint working to understand mitigating factors and resolve issues should continue throughout any action related to deliberate and unreasonable refusal to cooperate.

Duty to refer

22.26 There is a duty on specified public bodies to refer to a housing authority (with consent) any household which is threatened with homelessness or is homeless within 56 days to a housing authority with the service user's consent (section 213B). The following services are among those subject to the duty to refer:

a. social service authorities; and,

b. custodial institutions, youth offending teams and probation services.

22.27 For further guidance on duty to refer see Chapter 4. Specific referral arrangements should be made for care leavers and set out in the joint protocol or procedures.

Assessing priority need

22.28 Section 193 of the 1996 Act requires housing authorities to secure accommodation for applicants who have a priority need, and whose homelessness has not been prevented or relieved.

22.29 Categories and definitions of people who have priority need are set out in Chapter 8, and include:

a. 16 and 17 year old homeless applicants, except those who are a relevant child or a child in need who is owed a duty under section 20 of the Children Act 1989;

b. young people under 21 who were looked after between the ages of 16 and 18; and

c. people aged 21 or more who are vulnerable as a result of having been looked after, accommodated or fostered.

22.30 Categories b and c above exclude 'relevant students', who are owed particular accommodation and support duties under the Children (Leaving Care) Act. It

should be noted that a young person who was looked after when aged 16 or 17 will be in priority need when they are 18, 19 or 20 years old, whether or not they qualify for care leaving services from a children's services authority.

22.31 When assessing whether a person aged 21 or over is vulnerable as a result of having been looked after, accommodated or fostered. Factors that a housing authority may wish to consider include:

a. the length of time that the applicant was looked after, accommodated or fostered;

b. the reasons why they were looked after, accommodated or fostered;

c. the length of time since the applicant left care, and whether they have been able to obtain and maintain accommodation during any of that period;

d. whether the applicant has any existing support networks, particularly including family, friends or a mentor.

22.32 Housing authorities should take particular care in assessing whether a care leaver aged 21 or over is vulnerable, and should take into account whether, if homeless, they would be at particular risk of exploitation, abuse or involvement in offending behaviour as a result of having been looked after, accommodated or fostered.

22.33 There are other circumstances in which a young person may have priority need, including where they are significantly more vulnerable than an ordinary person would be if homeless. Assessments of vulnerability should draw upon the expertise of relevant practitioners, providers of care and support, and, where appropriate, voluntary, community and faith sector organisations supporting the young person.

Assessing intentional homelessness

Exempt care leavers

22.34 From 30th September 2026, the 1996 Act is amended to exempt certain care leavers from being considered intentionally homeless. Under section 191 (1ZA) of the 1996 Act, an intentional homelessness decision cannot be made where the applicant is a care leaver classed under the Children Act 1989 as a relevant child (section 23A(2)) or is a former relevant child (section 23C(1)) who is aged under 25. See section 9.9-9.10 for further guidance on how the exemption operates.

22.35 The exemption from the provisions on intentional homelessness apply to decisions to end the prevention, relief or main duty, as well as to assess whether the main S193 duty is owed. See Chapters 9, 14 and 15.

22.36 The exemption of certain care leavers from intentional homelessness decisions strengthens the need for cooperation between housing and children's services, to

ensure care leavers are properly advised and supported to sustain accommodation, and to avoid repeat loss of temporary and settled housing placements.

22.37 When reaching decisions on the future accommodation arrangements for a young person, authorities should take particular care to ensure:

a. Consideration of the reasons for the previous loss of accommodation, and steps that have been taken to prevent reoccurrence.

b. An understanding of how support needs will be met, including through the adoption of bespoke arrangements where required. Where possible, this should be set out in a jointly agreed plan between housing and children's services, and informed by advice from relevant practitioners.

c. Planned accommodation meets suitability requirements. For further guidance please see chapters 15 to 17.

d. Planned joint review points, including in the initial stages of the tenancy to ensure arrangements are suitable and sustainable for the care leaver.

Non-exempt care leavers and other young people

22.38 Young people with no care experience, or who are care leavers not covered by the exemption within section 191(1ZA), may be at risk of being found intentionally homeless. It is important that assessments take into account all the relevant facts, including the young person's age, history (including any periods in care or custody), emotional and mental wellbeing, maturity, and general ability to understand the impact and consequences of their actions.

22.39 When considering whether the acts or omissions that lead to a young person losing accommodation were deliberate; housing authorities should take into account their maturity, experience of managing accommodation, and the quality and extent of support that has been provided to sustain the accommodation.

22.40 The personalised housing plan should be reviewed and the housing authority and Personal Adviser, or other trusted and connected persons and other relevant officers, should work together with the young person to try and resolve the issues as a priority, to avoid the impact of an intentional homelessness decision wherever possible.

22.41 Children's services authorities may have a duty to 'former relevant' care leavers in terms of accommodation if there are no other options available and the welfare of the care leaver requires it (section 23C (4c) Children Act 1989).

Suitable accommodation for young people

22.42 When securing accommodation for a young person, housing authorities should ensure that it meets the suitability requirements set out in chapter 17, and take into account whether:

a. the accommodation is appropriate to the young person's age, maturity and support needs;

b. the location will enable the young person to access or maintain education, employment or training, where appropriate;

c. there are any risks to the young person's safety and wellbeing from other residents in the accommodation. For example, a young person who has experienced abuse or discrimination related to their sexual orientation or gender identity, or a young person at risk from others due to perceived gang association, criminal exploitation or violence.

22.43 Bed and breakfast accommodation is never suitable for 16 or 17 year old children. For young people aged 18 and over, bed and breakfast accommodation may be unsuitable, particularly where they are required to share facilities with older vulnerable adults, which could expose them to safeguarding risks, including exploitation, abuse or harassment.

22.44 Housing authorities should not assume that a young person will be ready to manage a tenancy at a particular age and should consider whether supported accommodation or provision of floating support, is needed to help them sustain accommodation and prepare for independent living.

Suitable Accommodation for Care leavers

22.45 Housing authorities and children's services authorities should adopt a shared strategic approach to the provision of suitable accommodation for care leavers.

22.46 In considering suitability, all authorities should bear in mind that care leavers who are homeless will be particularly vulnerable and in need of support. They may lack skills in managing their affairs and require help with managing their own accommodation and operating a household budget. Many care leavers lack the advice and support that is normally available to young people from family, friends and a mentor.

22.47 There should be no blanket presumption that at 18 a young person who has left care will be ready for their own tenancy; this should be a matter of individual assessment. Options will be based on their individual preferences, needs, circumstances and the local provision available, should align with the young person's pathway plan as agreed with their personal adviser, and might include, for example, supported lodgings, supported accommodation or independent accommodation with visiting support. For further guidance, please see: Securing sufficient accommodation for looked-after children - GOV.UK.

22.48 Bed and breakfast accommodation, including hotels and nightly let accommodation with shared facilities, is not considered suitable for care leavers aged under 25 and should only be used in exceptional circumstances and for short periods. When the use of bed and breakfast accommodation cannot be

avoided, there should be close management and oversight throughout the placement.

22.49 The specific needs and circumstances of care leavers should be taken into account in determining suitability of accommodation in relation to its location. For example, in the absence of strong family support networks they may wish to live as near as possible to another significant adult such as a friend or ex-foster carer; or need to avoid certain locations due to childhood experiences or associations.

22.50 Housing authorities should involve Personal Advisers in decisions about the suitability of accommodation and inform them prior to making an offer of accommodation, with the young person's consent. For further guidance on suitability of accommodation see Chapter 17 and Children Act 1989: transition to adulthood for care leavers statutory guidance.

Chapter 23: People with an offending history

23.1 This chapter provides guidance on providing homelessness services to people with an offending history.

23.2 People with an offending history are over represented amongst single people who are homeless and sleep rough, and a lack of accommodation is likely to have a negative impact on prospects for successful resettlement and rehabilitation.

23.3 Women in contact with the Criminal Justice System often have multiple and complex needs which affect their access to suitable and sustainable accommodation on release from custody. They generally have more complicated lives, including a higher prevalence of mental health problems and experience of abuse than male offenders, meaning a multi-agency, holistic and gendered response is often required. The disruptive impact of short custodial sentences is also particularly prevalent for women, as the majority of women sentenced to custody received sentences of 6 months or less. Outcomes for women in custody can be worse than for men; women are over-represented in self-harm incidents in prison and are often held further from home, making visiting and maintaining familial ties challenging. Women are also more likely to be at risk of domestic abuse; if at risk of homelessness women may return to abusive situations or feel unsafe accessing mixed-sex services and accommodation. Women are also more likely to be the primary carers in a family and need accommodation for both them and their children. There may also be challenges for women leaving prison regarding the interplay between gaining the custody of their children and securing accommodation.

23.4 'Foreign National Offenders', or Foreign Nationals with Home Office interest, often have more complex situations due to awaiting decisions on their immigration status and whether deportation will apply in their case, and as a result they may not be eligible for homelessness assistance. Housing authorities will need to consider eligibility of Foreign National Offenders. For further guidance on eligibility see Chapter 7.

23.5 Housing authorities will need to work in collaboration with HM Prisons, the Probation Service, Youth Offending Services, as well as other relevant partners to prevent people leaving custody, or living in the community, from becoming homeless. The duty to refer introduced through the 2017 Act provides an impetus to develop effective referral arrangements and accommodation pathways that involve all relevant agencies to provide appropriate jointly planned help and support to prevent homelessness.

23.6 Housing authorities should work closely with Youth Offending Services and children's social care services to ensure joint and advanced planning around the needs of young people leaving custody. Particular care should be taken to ensure that young people aged 16-17 and care leavers aged 18-24 do not leave custody without an accommodation plan in place. This will also require cooperation

between housing authorities and children's social care services in advance of release.

23.7 Housing authorities and offender management services (i.e. prisons, youth offending services and probation providers) should work together to ensure the accommodation needs of people leaving custody and those serving their sentence in the community are met. Probation providers have a responsibility to support people under their supervision to reduce reoffending. The probation Service, including through their contracted service providers, must provide support to help people find accommodation. Housing authorities should continue to work with probation providers, their contracted service providers, as well as prisons and voluntary sector organisations, to ensure their clients access suitable accommodation. Housing authorities are encouraged to proactively build relationships with agencies to this effect.

23.8 The following criminal justice services are subject to the duty to refer, meaning they are required to refer service users in England they consider may be homeless or threatened with homelessness within 56 days to a local housing authority, with the service user's consent:

a. prisons (public and private);

b. young offender institutions;

c. secure training centres;

d. secure colleges;

e. youth offending teams; and,

f. Probation Services

For further guidance on duty to refer see Chapter 4.

Advice and information

23.9 People with an offending history generally face additional barriers in accessing housing, and therefore will need targeted advice and information to help them to secure accommodation.

23.10 Section 179(2)(a) of the 1996 Act requires authorities to provide information and advice which is designed to meet the needs of people released from prison or youth detention. Advice and information to people with an offending history may be delivered via the housing authority's website, social media, through leaflets or through dedicated advice services, and will be most effective if developed in consultation or jointly with offender management services in the district (i.e. prisons, youth offending services and probation providers). Housing authorities

may also wish to consult with prisoners or people with an offending history before developing resources tailored to their particular needs.

23.11 Advice and information should reflect local circumstances and arrangements but might include:

a. the support available to people going in to custody which will enable them to retain a tenancy or license, or to surrender it so that rent arrears do not accrue;

b. housing benefit or universal credit entitlement for people in custody;

c. tenancy rights and how to protect a tenancy where it is appropriate to do so;

d. housing options for people leaving custody, including access to the social housing register, supported housing and help available to secure private rented accommodation; and,

e. support services for people with an offending history that might help them to secure and/or to sustain accommodation on release.

23.12 It is recommended that housing advice be made available to people whilst in custody, and that housing authorities collaborate with prisons from which offenders are released to their districts, together with probation providers, to provide accessible advice on housing options available to them. For further guidance on providing advice and information see Chapter 3.

Prevention

23.13 Housing authorities should put in place arrangements that will help to prevent people with an offending history from becoming homeless. Policies and partnerships designed to reduce homelessness might include, but not be limited to, the areas set out in 23.12 to 23.15 below.

Preventing loss of accommodation due to offending behaviour:

23.14 Tenants may be at risk of becoming homeless because of their own or others' antisocial or offending behaviour. Housing authorities should ensure that their housing management procedures include early contact with a tenant who they believe may be responsible for behaviour that could result in their becoming homeless, and that private landlords and private registered providers are encouraged to alert them where tenants are threatened with eviction. Where offender management services continue to be involved with the person they should be alerted of any risk of homelessness, so that joint plans may be put in place to try and prevent homelessness and provide additional support where appropriate.

23.15 Sometimes people with an offending history, and their families, become homeless because it is no longer safe for them to remain in their tenancy. Young people, who become involved in gang related activity, whether as victims or perpetrators, sometimes face particular risks. Housing authorities should work with police, offender managers and specialist services to coordinate activity to minimise risk and prevent homelessness. This will also help reduce re-offending and promote community safety.

Preventing loss of accommodation whilst a person is in custody:

23.16 Prison services and probation providers carry out assessments to identify resettlement needs, including the need for accommodation, at the start of a prisoner's period in custody. Sentence planning arrangements require plans for resettlement to be reviewed throughout the sentence and appropriate support arranged to meet a person's needs on leaving custody.

23.17 Assessing an offender's housing needs at the start of a period in custody will help to identify if assistance is required to end, sustain or transfer an existing tenancy, access welfare support to meet rent costs while in prison, or close down an existing tenancy appropriately. Housing authorities are advised to assist the Prison service and probation providers in providing advice to prisoners and taking action to ensure they can sustain or surrender their accommodation while in custody.

Preventing homelessness on leaving custody:

23.18 If a prisoner is assessed as requiring assistance with accommodation on release, there will usually be sufficient time to consider their options and take action to try and prevent their homelessness. In most cases, but particularly with young people, contact should be made with family to try and support a return home (where safe to do so) if only on a temporary basis. Where a person preparing to leave custody cannot return to family or another safe address, housing authorities should work with the applicant and liaise with offender manager and support services to agree and to deliver reasonable steps to prevent them from becoming homeless on release.

Assessing priority need

23.19 Housing authorities have a duty to help secure accommodation for any applicant threatened with homelessness on leaving custody, irrespective of priority need. For further guidance on prevention duty see Chapter 12, for further guidance on the relief duty see Chapter 13 and for further guidance on assessments and plans see Chapter 11.

23.20 Where activity to prevent or relieve homelessness is unsuccessful the authority will need to assess whether the person has a priority need for accommodation and is owed the main housing duty. For further guidance on priority need see Chapter 8 and for further guidance on accommodation duties see Chapter 15. **A person who is vulnerable as a result of having served a custodial sentence, been committed for contempt of court or remanded in custody has a priority need for accommodation.**

23.21 Assessments of vulnerability should be composite, taking into account all relevant factors that might contribute to a person being significantly more vulnerable if homeless than an ordinary person would be if homeless. In determining whether applicants who fall within this category are vulnerable as a result of their period in custody a housing authority will need to take into account all of the relevant factors including:

a. the length of time the applicant served in custody or detention (although authorities should not assume that vulnerability could not occur as a result of a short period in custody or detention);

b. whether the applicant is receiving supervision from a criminal justice agency e.g. the Probation Service or youth offending team. Housing authorities should have regard to any advice from criminal justice agency staff regarding their view of the applicant's general vulnerability, but the final decision on the question of vulnerability for the purposes of the homelessness legislation will rest with the housing authority;

c. the length of time since the applicant was released from custody or detention, and the extent to which the applicant has been able to obtain and/or maintain accommodation during that time;

d. whether the applicant has any existing support networks and how much of a positive influence these networks are likely to be in the applicant's life.

23.22 Housing authorities should take into account the assessments of housing and support needs completed by offender management services, or voluntary organisations acting on behalf of these agencies.

Intentional homelessness

23.23 People with an offending history may apply for homelessness assistance after losing their accommodation due to a period in custody. In considering whether such an applicant is homeless intentionally the housing authority will have to decide whether:

a. there was a likelihood that ceasing to occupy the accommodation could reasonably have been regarded at the time as a likely consequence of committing the offence; and,

b. the accommodation would have otherwise continued to be available to the person at the point in time when they applied for homelessness assistance.

23.24 Housing authorities must consider each application on a case by case basis, in the light of all the facts and circumstances, including the age and maturity of the

applicant, and should discuss the matter with the Probation Service. Authorities should not adopt a blanket policy which assumes that people who have lost accommodation whilst in custody will or will not be assessed as intentionally homeless.

Local connection

23.25 Housing authorities may receive applications from people leaving custody who do not have a local connection to their district but do have a connection to another local authority area. For further guidance on local connection see Chapter 10. If the applicant is eligible for assistance and threatened with homelessness the housing authority taking the application will have a section 195 prevention duty, whether or not the applicant has a local connection. Detention in prison (whether convicted or not) does not establish residency of choice in the district the prison is in, and so will not create a local connection with that district.

23.26 However, if the applicant is homeless the receiving authority may, if it is satisfied that the conditions are met, make a referral to another district where the applicant has a local connection. If the notified authority accepts that the conditions for referral are met they will take on the section 189B relief duty, as well as a duty to provide accommodation if there is reason to believe the applicant may be in priority need.

23.27 In considering whether or not a referral should be made, the authority that has taken the application should consider the particular circumstances of the applicant, and any risks involved in referring them to another local authority area. An applicant cannot be referred to another area where they would be at risk of violence. The authority will also want to take into account the considerations identified in paragraphs 23.28 and 23.29 below where relevant, before making a final decision.

Suitability of accommodation

23.28 Section 208(1) requires housing authorities to secure accommodation within their district, in so far as is reasonably practicable. There may be circumstances in which there are clear benefits for the applicant of being accommodated outside of the district. This could occur where upon the advice of the Probation Service or through Multi Agency Public Protection Arrangements (MAPPA) it is decided that a person with an offending history should be placed outside the district to reduce risk of reoffending, or to help break links with previous contacts who could exert a negative influence.

23.29 There may also be instances where a criminal justice agency or MAPPA advise that in order to ensure appropriate distance between the applicant and their victims, the applicant should reside in a particular area, where they do not have a local connection.

23.30 When assessing the accommodation needs of a person with an offending history an authority will need to take into account their support needs, which in some

cases might be complex. Young people leaving custody are likely to require accommodation with some level of support if they are to maintain their tenancy or license and avoid reoffending.

Accessing accommodation

23.31 People with an offending history face barriers to accessing accommodation across tenures. Housing authorities providing help to secure or securing accommodation should be aware of the provisions of the Rehabilitation of Offenders Act 1974 (as amended by the Legal Aid Sentencing and Punishing Offenders Act 2012). The Rehabilitation of Offenders Act 1974 sets out timescales for when convictions become spent, after which it is unlawful for social and private landlords to take spent convictions into account when determining whether the person is suitable for housing.

Chapter 24: Former members of the armed forces

24.1 This chapter provides guidance on providing homelessness services to former members of the armed forces, who are referred to throughout as veterans.

24.2 Members of Her Majesty's regular naval, military and air forces are generally provided with accommodation by the Ministry of Defence (MOD), but are required to leave this when they are discharged from the service.

24.3 Housing authorities that have a significant number of service personnel stationed in their area will need to work closely with relevant partners, such as the Joint Service Housing Advice Office and MOD's resettlement services, to ascertain likely levels of need for housing assistance amongst people leaving the forces and plan their services accordingly.

24.4 The Secretary of State for Defence is subject to the duty to refer in relation to the members of the regular forces. He is required to refer members of the regular forces in England he considers may be homeless or threatened with homelessness within 56 days to a local housing authority, with the individual's consent. For further guidance on the duty to refer see Chapter 4. The regular forces are the Royal Navy, the Royal Marines, the regular army and the Royal Air Force.

Advice and information

24.5 The principal responsibility for providing housing information and advice to Service personnel lies with the armed forces up to the point of discharge and these services are delivered through the Joint Service Housing Advice Office and through the Veterans UK Online. Some people, who have served in the armed forces for a long period, and those who are medically discharged, may be offered assistance with resettlement by the MOD's resettlement staff.

24.6 Housing authorities have a duty (section 179) to provide advisory services free of charge to people in their district. The service must be designed to meet the needs of certain groups, which include former members of the regular armed forces. This duty will be particularly relevant for housing authorities who have armed forces stationed within their districts, and in these circumstances authorities are encouraged to consult with the services concerned about how best to deliver local housing advice to prevent veterans from becoming homeless. For further guidance on providing advice and information on homelessness and threatened with homelessness see Chapter 3.

Veterans required to leave service accommodation

24.7 The MOD recognises that housing authorities will need to be satisfied that entitlement to occupy service accommodation will end on a certain date in order

to determine whether applicants who are service personnel and approaching their date of discharge may be homeless or threatened with homelessness.

24.8 For this purpose, the MOD issues a Certificate of Cessation of Entitlement to Occupy Service Accommodation six months before discharge. These certificates indicate the date on which entitlement to occupy service accommodation ends, and the Secretary of State considers that housing authorities should not insist upon a court order for possession to establish that entitlement to occupy has ended.

Priority need

24.9 A person who is vulnerable as a result of having been a member of Her Majesty's regular armed forces (a veteran) has a priority need for accommodation. Veterans will include a person who was previously a member of the regular naval, military or air forces.

24.10 In considering whether veterans are vulnerable (as set out in paragraph 6.9 above) as a result of their time spent in the forces, a housing authority may wish to take into account the following factors:

a. the length of time the applicant spent in the armed forces (although authorities should not assume that vulnerability could not occur as a result of a short period of service);

b. the type of service the applicant was engaged in (those on active service may find it more difficult to cope with civilian life);

c. whether the applicant spent any time in a military hospital (this could be an indicator of a serious health problem or of post-traumatic stress);

d. whether HM Forces' medical and welfare advisers have judged an individual to be particularly vulnerable in their view and have issued a Medical History Release Form giving a summary of the circumstances causing that vulnerability;

e. the length of time since the applicant left the armed forces, and whether they have been able to obtain and/or maintain accommodation during that time; and,

f. whether the applicant has any existing support networks, particularly by way of family or friends.

Intentional homelessness

24.11 Where service personnel are required to vacate service quarters as a result of taking up an option to give notice to leave the service, and in so doing are acting in compliance with their contractual engagement, they should not be considered

to have become homeless intentionally. For further guidance on intentional homelessness see Chapter 9.

Local connection

24.12 Section 315 of the Housing and Regeneration Act 2008 amended section 199 of the 1996 Act to enable members of the armed forces to establish a local connection through residence or employment in the same way as a civilian. For further guidance on local connection see Chapter 10.

Chapter 25: Modern Slavery

25.1 This chapter provides guidance on modern slavery in relation to applicants who are threatened with homelessness or homeless

What is modern slavery and trafficking?

25.2 Modern slavery is a serious and often hidden crime in which people are exploited for criminal gain. It encompasses human trafficking and slavery, servitude and forced or compulsory labour. The impact can be devastating for victims. The essence of human trafficking is that the victim is coerced or deceived into a situation where they are exploited. Article 4(a) of the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT) defines 'human trafficking' as: "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs." More information on the definitions and indicators of modern slavery can be found in Modern Slavery Act 2015 Statutory Guidance for England and Wales.

Identification

25.3 Modern slavery is a highly complex crime. There is no typical victim of slavery – victims can be men, women and children of all ages, ethnicities and nationalities (including British) and cut across the population. But it is normally more prevalent amongst the most vulnerable groups, for example, individuals with mental health issues, substance misuse issues or socially isolated individuals. However, anyone can be a victim of modern slavery. Victims may not recognise themselves as a victim of modern slavery or may be reluctant to be identified as such, and therefore they may not be aware that they are a victim of modern slavery. Vulnerabilities may not be initially apparent and therefore it is important that housing authorities obtain as much information as possible from other organisations engaged with the victim (with their consent), in order to understand their support needs.

25.4 Local authorities are responsible for safeguarding and promoting the welfare of all children in their area, including child victims of modern slavery. Child victims are victims of child abuse and should therefore be treated as such using existing child protection procedures and statutory protocols. Safeguarding procedures may also apply for child family members of adult victims of modern slavery.

25.5 Victims of modern slavery can be found anywhere. There are certain industries where they are currently more prevalent, such as nail bars, car washes, agriculture and fishing, building sites and the sex industry. Other high-risk situations include when there is a need for a sudden injection of workers into the

work force, such as seasonal staff or construction for a major event. However, victims may also pass through transport hubs, health services and other public places or be found in private homes

25.6 In all cases decision makers should be alive to the possibility that applicants for assistance under Part 7 are victims of modern slavery and or are otherwise vulnerable. Particular care should be paid to children, especially where there are doubts about the relationship with any purported guardian. **Children's social services should be alerted to any safeguarding concerns immediately**.

The National Referral Mechanism

25.7 The National Referral Mechanism (NRM) is the process by which people who may be victims of modern slavery are identified and supported by the UK Government.

25.8 Adults identified in the NRM will be connected with the appropriate support to assist them in rebuilding their lives, which may include support provided through the specialist Government-funded Modern Slavery Victim Care Contract (including safehouse accommodation, financial support and a support worker to help facilitate access to wider services), and support provided by local authorities and asylum services.

25.9 **Local authorities, as designated first responder organisations, should refer any individual they suspect to be a victim of modern slavery to the NRM.** Adults have to provide informed consent to be referred to the NRM, but children do not need to consent and must be referred to the NRM if there are suspicions that the child has been a victim of modern slavery. For further detail on how to refer to the NRM, please see the Modern Slavery Act 2015 Statutory Guidance for England and Wales.

25.10 In some instances, the adult involved may not give consent to a referral to the NRM. In this case, instead of referring the case, the housing authority has a duty to notify the Home Office under section 52 of the Modern Slavery Act 2015. For further information, see the Modern Slavery Act 2015 Statutory Guidance for England and Wales. Housing authorities may also wish to consider making referrals to other organisations who may be able to provide support to the potential victim, with their consent.

25.11 Following the referral of an adult or child into the NRM, an initial 'reasonable grounds' decision will be made by the Single Competent Authority, where possible, within 5 working days.

Modern Slavery Victim Care Contract (MSVCC)

25.12 If an adult receives a positive reasonable grounds decision through the NRM, they are entitled to support. This is provided through a central government-funded modern slavery victim care contract (MSVCC) and includes safe house accommodation, financial support and a support worker to help with access to wider services including, but not limited to, health and mental health services, translation and legal representation. For more information regarding MSVCC

support, see the Modern Slavery Act 2015 Statutory Guidance for England and Wales.

25.13 The MSVCC operates as a bridge, to lift adult victims out of a situation of exploitation and to set them on a pathway to rebuild their lives. The support provided through the MSVCC does not prevent potential victims or victims from accessing support they would otherwise be entitled to receive, including support from housing authorities.

25.14 The Salvation Army is the Prime Contractor of the MSVCC. The Salvation Army will undertake an initial Risk Assessment for a potential adult victim once they have received a referral from the Single Competent Authority, to determine the potential victim's immediate needs and identify if accommodation is required. Emergency accommodation is available under the MSVCC where potential victims are destitute and have no safe accommodation – this can be provided prior to a reasonable grounds decision being made. Further details can be found in Annex F of the Modern Slavery Act 2015 Statutory Guidance for England and Wales.

25.15 Where a potential victim is already in suitable accommodation, such as accommodation secured by the local authority or asylum accommodation, and there is no risk to them in remaining at their current location, they will usually continue to remain in that accommodation unless a MSVCC needs-based assessment reveals a specific need for MSVCC accommodation. Further information on what constitutes suitable accommodation can be found in Chapter 17.

25.16 Further to the reasonable grounds decision, a Conclusive Grounds decision will be made which will determine whether, on the balance of probabilities, the individual is a confirmed victim of modern slavery. Following a positive Conclusive Grounds decision, victims are entitled to at least 45 calendar days of 'move-on' support and will only be exited from MSVCC support when it is appropriate to do so. Further information is set out in the Modern Slavery Act 2015 Statutory Guidance for England and Wales. The MSVCC support providers may support the victim to make a homelessness application and/or make a voluntary referral to the housing authority.

Children support and assistance

25.17 Children are supported locally and are not provided with support and assistance through the MSVCC, unless they are the dependent of an adult receiving support through the MSVCC. Housing authorities should refer unaccompanied children to children's services in line with local safeguarding procedures.

Applications and inquiries under Part 7

25.18 Section 188(1) of the 1996 Act requires housing authorities to secure that accommodation is available for an applicant if they have reason to believe that the applicant may be homeless, eligible for assistance and have a priority need. If housing authorities believe an individual may be vulnerable as a result of being a victim of modern slavery, following a referral to the NRM, housing authorities

should ensure that interim accommodation is available while they are waiting for an initial Reasonable Grounds decision and/or while the housing authority carries out its enquiries.

25.19 As set out in 25.16, further to a reasonable grounds decision, a Conclusive Grounds decision will be made. Following a positive Conclusive Grounds decision, victims will be exited from MSVCC support, only when appropriate to do so, and will be entitled to receive at least 45 calendar days of support from the MSVCC provider during the move-on period. Victims who have been unable to secure accommodation may be owed homelessness duties as they will be required to transition from MSVCC accommodation. Housing authorities may find it helpful to establish local, joint working arrangements with MSVCC support providers where appropriate, to help identify people at risk of homelessness as early as possible and maximise the opportunities to prevent homelessness and the risk of re-trafficking.

25.20 As MSVCC accommodation is designed to be transitional, it should not be considered reasonable to continue to occupy in the medium and longer term. Therefore, where appropriate, housing authorities are encouraged to explore options for housing which may provide a more long-term solution for applicants.

25.21 In many cases involving modern slavery or trafficking, the applicant may be in considerable distress and officers would benefit from appropriate training to enable them to conduct such interviews. Applicants should be given the option of being interviewed by an officer of the same sex if they wish. Victims may also require support from their support worker during interviews and in completing applications, therefore where consent is given, the support worker should be enabled to liaise with the local authority directly, on behalf of the victim. Information that other agencies supporting the victim have provided should be taken into account when making the assessment and care should be taken not to repeat requests for information that has already been provided, to reduce the risk of retraumatisation. Guidance on trauma-informed practice can be found in Annex D of the Modern Slavery Act 2015 Statutory Guidance for England and Wales.

25.22 A person who has been a victim of trafficking or modern slavery may have a priority need for accommodation if they are assessed as being vulnerable according to section 189(1)(c) of the 1996 Act. In assessing whether they are vulnerable a housing authority should take into account the risk of the applicant being re-exploited and advice from specialist agencies providing services to the applicant, such as their assigned support provider under the NRM, or other organisations who are providing support including drug and alcohol services, local charities and the police. Many victims of modern slavery suffer from poor mental health and often lack support structures in the area they are residing. If a victim of modern slavery is threatened with homelessness or is homeless this significantly increases their risk to being re-trafficked or exposed to further exploitation. For further guidance on priority need see Chapter 8.

25.23 An applicant who is a potential victim of modern slavery may have left an area where they have a local connection due to a risk of violence or domestic abuse. A housing authority cannot refer an applicant to another housing authority if they

or anyone who might reasonably be expected to reside with them would be at risk of violence or domestic abuse in that area. For more information on local connection, see Chapter 10.

Suitability of accommodation

25.24 There may be a number of accommodation options for victims of modern slavery. Housing authorities should consider which are most appropriate for each person on a case by case basis taking into account their specific circumstances and needs.

25.25 Account will need to be taken of any special considerations relating to the applicant and their household or their experiences that might affect the suitability of accommodation. Where there is no other option for applicants who have suffered modern slavery but to be accommodated in an emergency hostel or bed and breakfast accommodation, care will need to be taken to ensure that the accommodation is suitable for that individual, taking into account their particular needs and circumstances. For example, housing authorities should consider whether an applicant could be at increased risk of harassment, abuse, exploitation, retrafficking or retraumatisation in a particular setting, and whether particular support provision or security measures are required. Housing authorities will need to comply with the special rules regarding suitability of bed and breakfast accommodation relating to those with children or who are pregnant, which can be found in Chapter 17. Housing authorities should be mindful that vulnerable individuals who have left their traffickers remain at an enhanced risk of being retrafficked.

25.26 Whilst authorities should, as far as is practicable, aim to secure accommodation within their own district, they should also recognise that there can be benefits for some applicants to be accommodated outside of the district. This could occur in cases of modern slavery or trafficking where the applicant, and/or a member of their household, would be vulnerable to further exploitation and needs to be accommodated outside the district where there is a risk of staying in the area has been identified, for example, a risk of re-trafficking.

Chapter 26: Victims of Violence

26.1 This chapter provides guidance on providing homelessness services to eligible people who have experienced or are at risk of violence.

26.2 To note, different guidance applies where homelessness is as a result of domestic abuse. For guidance on providing homelessness services in cases involving domestic abuse see Chapter 21.

Priority need

26.3 A person who is vulnerable as a result of ceasing to occupy accommodation because of violence from another person or threats of violence from another person which are likely to be carried out has a priority need as set out in article 6 of the Homelessness (Priority Need for Accommodation) (England) Order 2002. Further information on priority need can be found at Chapter 8. 'Another person' should not necessarily be interpreted to mean violence or threats from one known person – it may also include known or unknown groups.

26.4 Housing authorities are reminded that the interim accommodation duty requires them to secure that accommodation is available for an applicant if they have reason to believe that the applicant may be homeless, eligible for assistance and have a priority need.

Defining violence

26.5 Section 177(1A) of the 1996 Act defines violence as violence from another person or threats of violence from another person which are likely to be carried out.

26.6 The term 'violence' should not be given a restrictive meaning and can include threatening or intimidating behaviour or abuse. Violence does not have to meet the threshold of 'serious violence' (as set out in Government's Serious Violence Strategy) in order to be defined as violence under homelessness legislation.

Assessing homelessness

26.7 The homelessness assessment should identify the reason for homelessness, including whether the applicant has had to leave accommodation because of violence or threats of violence. The authority should support the victim to outline their experience and make an assessment based on the details of the case.

26.8 Section 177(1) of the 1996 Act provides that it is not reasonable for a person to continue to occupy accommodation if it is probable that this will lead to violence against:

(a) the applicant,

(b) person who normally resides as a member of the applicant's family; or,

(c) any other person who might reasonably be expected to reside with the applicant.

26.9 Housing authorities should offer safe options for people at risk of violence to make an application for homelessness assistance. For some victims it might not be safe for them to attend the housing authority offices themselves if they are at risk of violence in the district – and where this is the case, the authority should offer assessments over-the-phone, or via any other method required to make the application safe and accessible for the applicant.

26.10 Where appropriate, housing authorities should accept referrals from concerned parties by allowing someone else to make the initial approach to the housing authority on behalf of a victim, provided the individual has the victim's consent. Housing authorities must then **safely** verify with the victim that they wish to make a homelessness application, gaining the victim's consent to start the application and ensuring any information provided by a third party on their behalf accurately reflects their choices and needs. It should also be made clear to applicants that households making a homeless application are able to bring a trusted individual – e.g. a friend or support worker - to any appointments to support them in making their application. In cases involving violence, the applicant may be in considerable distress and housing authorities should ensure that interviewing officers have the sufficient skills to deal with the particular circumstances.

26.11 There may be occasions where victims of violence are seeking assistance having left behind ID and other documentation that may be required to support their application. There may also be occasions where a perpetrator has taken possession of a victim's ID. Housing authorities should work with any agency as appropriate, for example probation services, police, social services, or other support services, and the applicant to ensure that essential documentation can be recovered or replaced without putting the applicant at further risk of violence. **Applicants must not be asked to return to a particular locality or property to collect documentation if there is any chance that it could put them in danger.**

26.12 Obtaining ID and other supporting documentation in such cases may take time and require advice and support. **Where there is reason to believe the applicant is homeless, eligible and in priority need, the provision of safe interim accommodation should remain a priority. A delay in obtaining ID or supporting documentation should not be a barrier to accessing safe interim accommodation in such cases.**

Assessing risk of violence

26.13 Assessment as to whether a risk of violence is 'likely to be carried out' should be taken on a case-by-case basis by evaluating the account given by the applicant and the evidence that has been presented considering all the circumstances.

26.14 An assessment of the likelihood of a threat of violence being carried out should not be limited to whether there has been actual violence in the past. The housing

authority may wish to consider facts such as how recent any threats or offences were, and the proximity of risk in terms of locality. Assessments must be based on the facts of the case and should be devoid of any value judgements about what an applicant should or shouldn't do (or have done), to mitigate the risk of any further violence.

26.15 To establish the risk of violence, housing authorities may wish to seek further evidence where it is available and appropriate to do so, although it is essential that inquiries do not provoke further violence. Housing authorities **should not approach an alleged perpetrator or exploiter**, since this could generate further violence. With consent from the applicant the housing authorities may wish to seek information from any appropriate agency, group or individual, for example - friends and relatives of the applicant, probation services, offender managers, youth offending services, police, social services, health professionals, youth workers, educational establishments or landlords. This is not an exhaustive list and there may be other sources of evidence that would be appropriate. In assessing the evidence, housing authorities should not necessarily give additional weight to evidence, or the absence of evidence provided by statutory services. For example, a lack of corroborating evidence from the police may reflect that the applicant was fearful approaching the police, as this could increase the risk of violence.

26.16 Housing authorities are not required to attempt to gather evidence from all of the above parties and should contact only those it judges are best able to provide supporting evidence in each case (with no risk to the safety of the applicant). In some cases, corroborative evidence of violence may not be available, or applicants may be constrained in regard to the information they are safely able to share. For example, where someone had taken over the applicant's home for the purposes of exploitation or where someone had been threatened with violence by a criminal gang, and was too intimidated to report incidents of violence to family, friends or police. This may be particularly relevant where the applicant themselves has been involved in criminal activity, or where they are vulnerable for other reasons. The housing officer should pay due regard to the fact that they may be the first person that the victim has confided in. **Housing authorities should not have a blanket approach toward assessing risk of violence which requires police evidence to be provided,** particularly where the applicant or their family could be at risk of reprisal. In particular, police evidence may not be necessary where the risk can be verified through other methods – for example, evidence from all professionals, including social services, support workers, youth services, educational establishments and health care staff.

26.17 Housing authorities should also be alert to the wider role they play in ensuring victim safety. Procedures should be in place to keep all information on victims safe and secure. In many cases, perpetrators go to great lengths to seek information on victims. The housing authority must also be alert to the possibility of employees being, or having links to, perpetrators. Housing authorities should not disclose information about an applicant to anybody outside the organisation without consent, and should be particularly alert to the need to maintain

confidentiality wherever there is risk of violence to an applicant. Housing authorities may wish to pay due regard to the extent of information recorded – for example, by taking care to only record the information that is relevant and necessary for the purposes of the homelessness application.

Local connection referrals

26.18 A housing authority cannot refer an applicant to another housing authority where they have a local connection if that person or any person who might reasonably be expected to reside with them would be at risk of violence in that other district. For further guidance on local connection see Chapter 10.

Assessing vulnerability

26.19 When determining whether an applicant is vulnerable as a result of violence or threats of violence likely to be carried out, the housing authority should consider all the circumstances and evidence applicable to the case. The housing authority may wish to consider facts such as how recent any offences or threats were, the age of the applicant, the impact of the violence or threat of violence on the victim (for example, in relation to the applicant's physical or mental health) and the ongoing level of threat posed.

26.20 As for assessing risk of violence, housing authorities may wish to seek further evidence to determine vulnerability with the applicant's consent, where it is available and appropriate to do so. The housing authority may seek input from others, including the parties listed above (at paragraph 26.13) or any other relevant agency, group or individual, in order to assess vulnerability.

Assessing perpetrators at risk of violence

26.21 Sometimes those who have perpetrated violence, and/or their families, become homeless because it is no longer safe for them to remain in their home - for example, young people who become involved in serious violence and are at risk of reprisals. Perpetrators of violence are sometimes also victims of violence. Applicants who are at risk of violence having also perpetrated violence themselves should be assessed and supported as an applicant for assistance in the usual way.

26.22 Housing authorities should work with police, offender managers, health care services, voluntary sector organisations, and any other agency appropriate, to coordinate activity to minimise risk and prevent homelessness, in order to help reduce re-offending and promote community safety.

Assessing intentional homelessness

26.23 In assessing intentional homelessness, the housing authority will need to determine the circumstances leading to a threat of homelessness and housing authorities will need applicants to provide all relevant information to inform their assessment. This will usually include enquiring into their accommodation history

at least as far back as their last settled address, and the events that led to them being threatened with or becoming homeless. In order to establish intentional homelessness, it is the applicant who must deliberately have done or failed to do something which resulted in homelessness (or they must have acquiesced in that behaviour). For more information on intentional homelessness please see Chapter 9.

26.24 In assessing whether an applicant is intentionally homeless, it will be necessary for the housing authority to give careful consideration to the circumstances of the applicant and the household, in each case, and with particular care in cases where violence has been alleged. To inform this assessment, housing authorities should consult with any relevant parties to obtain advice and information as to the applicant's emotional and mental well-being, maturity and general ability to understand the impact of their actions, particularly at the time of the events in question including at the time any accommodation was fled, as well as any evidence of coercion.

26.25 When assessing intentional homelessness, applicants should be encouraged to share information, questions should be asked in a sensitive way and with an awareness that the applicant may be reluctant to disclose personal details where this may cause distress, or if they lack confidence that their circumstances will be understood and considered sympathetically. Housing authorities should ensure staff have sufficient skills and training to conduct assessments of applicants who may find it difficult to disclose their circumstances, including people who have a history of offending.

26.26 The prevention and relief duties owed to applicants who are eligible for assistance and homeless, or threatened with homelessness, apply irrespective of whether or not they may be considered to be homeless intentionally. Applicants who have a priority need, and whose homelessness has not been successfully relieved, are owed a lesser duty if they have become homeless intentionally than would be owed to them if they were homeless unintentionally. For further guidance on the accommodation duty owed to intentionally homeless applicants see Chapter 15.

Personalised housing plans

26.27 When developing a personalised housing plan the housing authority should be particularly sensitive to an applicant's wishes and respectful of their judgement about the risk of violence. Applicants should be allowed sufficient time and space to absorb and understand the options available to them. For further guidance on assessments and personalised housing plans see Chapter 11.

26.28 The reasonable steps that a housing authority might take to help an applicant to retain or secure safe accommodation might include organising a managed transfer, arranging other security measures, or assistance to find alternative accommodation. Housing authorities may provide temporary accommodation whilst action is taken to exclude or to arrest and detain a perpetrator. Single

people might also be assisted to access supported housing through the intervention of the housing authority.

Suitable accommodation

26.29 Where the housing authority has reason to believe the applicant may have priority need, housing authorities should be proactive in offering safe accommodation under the interim or relief duties without delay. There are then a number of potential long-term accommodation options for victims of violence, and housing authorities will need to consider which are most appropriate for each person on a case-by-case basis taking into account their circumstances and needs. The safety of the applicant and their household must be a primary consideration when determining the suitability of any alternative accommodation being offered.

26.30 Account will need to be taken of any social considerations relating to the applicant and their household that might affect the suitability of accommodation offered to them, including the locality of the risk of violence. In some cases, supported accommodation may be a suitable option, particularly for young people involved in violence living independently for the first time, or moving out of area and away from support networks. Equally, large, shared, supported accommodation options may be unsuitable where there is an increased risk of exploitation or harm, depending on the applicant and their circumstances.

26.31 Section 208(1) requires housing authorities to secure accommodation within their district, in so far as is reasonably practicable. However, in cases where a victim is at risk of violence in a particular locality, accommodation in that area is unlikely to be suitable. In such cases, there could be benefits for the applicant to being accommodated in a safe area outside of the district, for example, to help break links with previous contacts who could exert a negative influence, or to reduce the risk of violence. There may be multiple localities in which an applicant is unsafe and a robust assessment may be necessary. Housing authorities are encouraged to engage with regional probation teams, police or any other appropriate professionals to ensure placements are suitable. The applicant's assessment as to where they feel safe should always be of key consideration.

26.32 Housing authorities will likely need to consider the need for accommodation that would not be found by the perpetrator (which may involve an out-of-borough placement), or may wish to consider accommodation which has security measures and appropriately trained staff to protect the occupants. Housing authorities should consider implementing a reciprocal agreement with other housing authorities and providers to facilitate out of area moves for applicants at risk of violence. For secure social housing tenants, housing authorities should work closely with registered providers to facilitate suitable transfer arrangements within the landlord's existing stock, wherever possible.

26.33 Careful consideration should be given to applicants who may be at risk of witness intimidation. In some criminal cases the police may provide alternative accommodation for witnesses, but usually this will apply for the duration of the trial only. Witnesses may have had to give up their home or may feel unable to return to it when the trial has finished.

Interaction between modern slavery and violence

26.34 Modern slavery encompasses human trafficking and exploitation. Human trafficking is defined as the recruitment, movement, harbouring or receiving of children, women or men through the use of force, coercion, abuse of vulnerability, deception or other means for the purpose of exploitation. Exploitation can take many forms including sexual exploitation, forced labour or services, slavery, servitude, forced criminality or removal of organs. Modern Slavery is a crime under the Modern Slavery Act 2015. Such crimes often involve an imbalance of power between the abuser and the abused usually related to age, sex, cognitive ability, physical strength or access to money or other resources. Anyone can be a victim of modern slavery, irrespective of age, sex, gender identity, nationality or ethnicity. Local authorities should pay due regard to the indicators of modern slavery for all applicants, and particularly in cases involving violence. The indicators can be found in the Modern Slavery Act 2015 Statutory Guidance for England and Wales. For further guidance on providing homelessness services in cases involving modern slavery see Chapter 25.

The Serious Violence Duty and support for victims

26.35 The Serious Violence Duty, introduced through the Police, Crime, Sentencing and Courts Act 2022, commenced on the 31st January 2023. The Duty requires specified authorities to collaborate and plan to prevent and reduce serious violence, including identifying the kinds of serious violence that occur in the area, the causes of that violence (so far as it is possible to do so), and to prepare and implement a strategy for preventing and reducing serious violence in the area.

26.36 The Serious Violence Duty is intended to generate better partnership working locally to further protect victims of serious violence. Local authorities, as bodies with responsibility for the delivery of vital services, and housing authorities, who will have responsibility to take steps to prevent victims from becoming homeless, will have an essential role to play in partnership arrangements.

26.37 The specified authorities within a local government area required to work together to prevent and reduce serious violence include the police, offender managers, probation services and youth offending teams, fire and rescue authorities, educational authorities, clinical commissioning groups and local housing authorities.

26.38 Housing officers should pay due regard to the Serious Violence Duty Guidance and continue to work with the police and other key partners to reduce the risk of serious violence, including serious youth violence. This could involve, for

example, participation in joint casework or attending multi-agency boards where appropriate. It is vitally important that services continue to work together with housing authorities to provide support for the household and victim of violence. For further information see the Serious Violence Duty statutory guidance.

26.39 In addition, in supporting victims of violence, housing authorities may wish to refer applicants to The Code of Practice for Victims of Crime in England and Wales, which sets out the services and standards that must be provided to victims of crime by service providers in England and Wales.

Annex 1: The habitual residence test

1 In practice, when considering housing applications from persons who are subject to the habitual residence test, it is only necessary to investigate habitual residence if the applicant has arrived or returned to live in the UK during the two year period prior to making the application.

Definition of habitually resident

2 The term 'habitually resident' is not defined in legislation. Local authorities should always consider the overall circumstances of a case to determine whether someone is habitually resident in the UK, the Channel Islands, the Isle of Man or the Republic of Ireland.

General principles

3 When deciding whether a person is habitually resident in a place, consideration must be given to all the facts of each case in a common sense way. It should be remembered that:

a. the test focuses on the fact and nature of residence;

b. a person who is not resident somewhere cannot be habitually resident there. Residence is a more settled state than mere physical presence in a country. To be resident a person must be seen to be making a home. It need not be the only home or a permanent home but it must be a genuine home for the time being. For example, a short stay visitor or a person receiving short term medical treatment is not resident;

c. the most important factors for habitual residence are the length, continuity and general nature of actual residence rather than intention;

d. the practicality of a person's arrangements for residence is a necessary part of determining whether it can be described as settled and habitual;

e. established habitual residents who have periods of temporary or occasional absence of long or short duration may still be habitually resident during such absences.

Action on receipt of an application

Applicant came to live in the UK during the previous two years

4 If it appears that the applicant came to live in the UK during the previous two years, authorities should make further enquiries to decide if the applicant is habitually resident, or can be treated as such.

Factors to consider

5 The applicant's stated reasons and intentions for coming to the UK will be relevant to the question of whether they are habitually resident. If the applicant's stated

intention is to live in the UK, and not return to the country from which they came, that intention must be consistent with their actions.

6 To decide whether an applicant is habitually resident in the UK, authorities should consider the factors set out below. However, these do not provide an exhaustive check list of the questions or factors that need to be considered. Further enquiries may be needed. The circumstances of each case will dictate what information is needed, and all relevant factors should be taken into account.

Why has the applicant come to the UK?

7 If the applicant is returning to the UK after a period spent abroad, and it can be established that the applicant was previously habitually resident in the UK and is returning to resume their former period of habitual residence, they will be immediately habitually resident.

8 In determining whether an applicant is returning to resume a former period of habitual residence authorities should consider:

a. when did the applicant leave the UK?

b. how long did the applicant live in the UK before leaving?

c. why did the applicant leave the UK?

d. how long did the applicant intend to remain abroad?

e. why did the applicant return?

f. did the applicant's partner and children, if any, also leave the UK?

g. did the applicant keep accommodation in the UK?

h. if the applicant owned property, was it let, and was the lease timed to coincide with the applicant's return to the UK?

i. what links did the applicant keep with the UK?

j. have there been other brief absences? If yes, obtain details

k. why has the applicant come to the UK?

9 If the applicant has arrived in the UK within the previous two years and is not resuming a period of habitual residence, consideration should be given to their reasons for coming to the UK, and in particular to the factors set out below.

Applicant is joining family or friends

10 If the applicant has come to the UK to join or rejoin family or friends, authorities should consider:

a. has the applicant sold or given up any property abroad?

b. has the applicant bought or rented accommodation or are they staying with friends?

c. is the move to the UK intended to be permanent?

Applicant's plans

11 Authorities should consider the applicant's plans, e.g.:

a. if the applicant plans to remain in the UK, is the applicant's stated plan consistent with their actions?

b. were any arrangements made for employment and accommodation (even if unsuccessful) before the applicant arrived in the UK?

c. did the applicant buy a one-way ticket?

d. did the applicant bring all their belongings?

e. is there any evidence of links with the UK, e.g. membership of clubs?

12 The fact that a person may intend to live in the UK for the foreseeable future does not, of itself, mean that habitual residence has been established. However, the applicant's intentions along with other factors, for example the disposal of property abroad, may indicate that the applicant is habitually resident in the UK.

13 An applicant who intends to reside in the UK for only a short period, for example for a holiday or to visit friends is unlikely to be habitually resident in the UK.

Length of residence in the UK

14 To be habitually resident in a country an applicant must have actually taken up residence and lived there for a period. It is not sufficient that the applicant came to the UK voluntarily and for settled purposes. They must be resident in fact for an appropriate period of time which demonstrates that their residence has become, and is likely to remain, habitual in nature. The appropriate period of time need not be lengthy if the facts indicate that a person's residence has become habitual in nature at an early stage. In some circumstances the period can be as little as a month, but it must be a period which is more than momentary in a claimant's life history. A period of between one and three months is likely to be appropriate to demonstrate that a person's residence is habitual in nature.

Length of residence in another country

15 Authorities should consider the length and continuity of an applicant's residence in another country:

a. how long did the applicant live in the previous country?

b. does the applicant have any remaining ties with their former country of residence?

c. has the applicant stayed in different countries outside the UK?

16 It is possible that a person may own a property abroad but still be habitually resident in the UK. A person who has a home or close family in another country would normally retain habitual residence in that country. A person who has previously lived in several different countries but has now moved permanently to the UK may be habitually resident here.

Centre of interest

17 An applicant is likely to be habitually resident in the UK, the Channel Islands, the Isle of Man or the Republic of Ireland, despite spending time abroad, if their centre of interest is located in one of these places.

18 People who maintain their centre of interest in the UK, the Channel Islands, the Isle of Man or the Republic of Ireland, for example a home, a job, friends, membership of clubs, are likely to be habitually resident there. People who have retained their centre of interest in another country and have no particular ties with the UK, the Channel Islands, the Isle of Man or the Republic of Ireland, are unlikely to be habitually resident in the UK, the Channel Islands, the Isle of Man or the Republic of Ireland.

19 Authorities should take the following into account when deciding the centre of interest:

a. home;

b. family ties;

c. club memberships;

d. finance accounts.

20 If the centre of interest appears to be in the UK, the Channel Islands, the Isle of Man or the Republic of Ireland but the applicant has a home somewhere else, authorities should consider the applicant's intentions regarding the property.

21 It is not uncommon for a person to live in one country but have property abroad that they do not intend to sell. Where such a person has lived in the Common Travel Area for many years, the fact that they have property elsewhere does not

necessarily mean that they intend to leave, or that the applicant's centre of interest is elsewhere.