



# Housing (Wales) Act 2014

2014 anaw 7

## PART 2

### HOMELESSNESS

#### CHAPTER 2

#### HELP FOR PEOPLE WHO ARE HOMELESS OR THREATENED WITH HOMELESSNESS

##### *Duties to help applicants*

#### **64 How to secure or help to secure the availability of accommodation**

- (1) The following are examples of the ways in which a local housing authority may secure or help to secure that suitable accommodation is available, or does not cease to be available, for occupation by an applicant—
  - (a) by arranging for a person other than the authority to provide something;
  - (b) by itself providing something;
  - (c) by providing something, or arranging for something to be provided, to a person other than the applicant.
- (2) The following are examples of what may be provided or arranged to secure or help to secure that suitable accommodation is available, or does not cease to be available, for occupation by an applicant—
  - (a) mediation;
  - (b) payments by way of grant or loan;
  - (c) guarantees that payments will be made;
  - (d) support in managing debt, mortgage arrears or rent arrears;
  - (e) security measures for applicants at risk of abuse;
  - (f) advocacy or other representation;

- (g) accommodation;
- (h) information and advice;
- (i) other services, goods or facilities.

- (3) The Welsh Ministers must give guidance to local housing authorities in relation to how they may secure or help to secure that suitable accommodation is available, or does not cease to be available, for occupation by an applicant.

## **65 Meaning of help to secure**

Where a local housing authority is required by this Chapter to help to secure (rather than “to secure”) that suitable accommodation is available, or does not cease to be available, for occupation by an applicant, the authority—

- (a) is required to take reasonable steps to help, having regard (among other things) to the need to make the best use of the authority’s resources;
- (b) is not required to secure an offer of accommodation under Part 6 of the Housing Act 1996 (allocation of housing);
- (c) is not required to otherwise provide accommodation.

## **66 Duty to help to prevent an applicant from becoming homeless**

- (1) A local housing authority must help to secure that suitable accommodation does not cease to be available for occupation by an applicant if the authority is satisfied that the applicant is—
- (a) threatened with homelessness, and
  - (b) eligible for help.
- (2) Subsection (1) does not affect any right of the authority, whether by virtue of a contract, enactment or rule of law, to secure vacant possession of any accommodation.

## **67 Circumstances in which the duty in section 66 ends**

- (1) The duty to an applicant under section 66 comes to an end in any of the circumstances described in subsection (2), (3) or (4), if the applicant has been notified in accordance with section 84.
- (2) The circumstances are that the local authority is satisfied that the applicant has become homeless.
- (3) The circumstances are that the local housing authority is satisfied (whether as a result of the steps it has taken or not) that—
- (a) the applicant is no longer threatened with homelessness, and
  - (b) suitable accommodation is likely to be available for occupation by the applicant for a period of at least 6 months.
- (4) The circumstances are that—
- (a) the applicant, having been notified in writing of the possible consequences of refusal or acceptance of the offer, refuses an offer of accommodation from any person which the authority is satisfied is suitable for the applicant, and
  - (b) the authority is satisfied that the accommodation offered is likely to be available for occupation by the applicant for a period of at least 6 months.

- (5) The period of 6 months mentioned in subsections (3)(b) and (4)(b) begins on the day the notice under section 84 is sent or first made available for collection.
- (6) See section 79 for further circumstances in which the duty in section 66 comes to an end.

## **68 Interim duty to secure accommodation for homeless applicants in priority need**

- (1) The local housing authority must secure that suitable accommodation is available for the occupation of an applicant to whom subsection (2) or (3) applies until the duty comes to an end in accordance with section 69.
- (2) This subsection applies to an applicant who the authority has reason to believe may—
  - (a) be homeless,
  - (b) be eligible for help, and
  - (c) have a priority need for accommodation,in circumstances where the authority is not yet satisfied that the applicant is homeless, eligible for help and in priority need for accommodation.
- (3) This subsection applies to an applicant—
  - (a) who the authority has reason to believe or is satisfied has a priority need or whose case has been referred from a local housing authority in England under section 198(1) of the Housing Act 1996, and
  - (b) to whom the duty in section 73 (duty to help to end homelessness) applies.
- (4) The duty under this section arises irrespective of any possibility of the referral of the applicant's case to another local housing authority (see sections 80 to 82).

## **69 Circumstances in which the duty in section 68 ends**

- (1) The duty to an applicant under section 68 comes to an end in any of the circumstances described in subsection (2), (3) (subject to subsection (4) and (5)), (7), (8) or (9) if the applicant has been notified in accordance with section 84.
- (2) The circumstances are that the local housing authority has decided that no duty is owed to the applicant under section 73 and the applicant is notified of that decision.
- (3) In the case of an applicant to whom section 68(3) applies, the circumstances are that the local housing authority has—
  - (a) decided that the duty owed to the applicant under section 73 has come to an end and that a duty is or is not owed to the applicant under section 75, and
  - (b) notified the applicant of that decision;but this is subject to subsections (4) and (5).
- (4) Subsection (5) applies where a local housing authority has decided that no duty is owed to the applicant under section 75 on the basis that the authority—
  - (a) is satisfied that the applicant became homeless intentionally in the circumstances which gave rise to the application, or
  - (b) has previously secured an offer of accommodation of the kind described in section 75(3)(f).

- (5) The duty under section 68 does not come to an end in the circumstances described in subsection (3) until the authority is also satisfied that the accommodation it has secured under section 68 has been available to the applicant for a sufficient period, beginning on the day on which he or she is notified that section 75 does not apply, to allow the applicant a reasonable opportunity of securing accommodation for his or her occupation.
- (6) The period mentioned in subsection (5) is not sufficient for the purposes of that subsection if it ends on a day during the period of 56 days beginning with the day on which the applicant was notified that the duty in section 73 applied.
- (7) The circumstances are that the applicant, having been notified of the possible consequence of refusal, refuses an offer of accommodation secured under section 68 which the local housing authority is satisfied is suitable for the applicant.
- (8) The circumstances are that the local housing authority is satisfied that the applicant has become homeless intentionally from suitable interim accommodation made available for the applicant's occupation under section 68.
- (9) The circumstances are that the local housing authority is satisfied that the applicant voluntarily ceased to occupy as his or her only or principal home suitable interim accommodation made available for the applicant's occupation under section 68.
- (10) The duty comes to an end in accordance with this section even if the applicant requests a review of any decision that has led to the duty coming to an end (see section 85).
- (11) The authority may secure that suitable accommodation is available for the applicant's occupation pending a decision on a review.
- (12) See section 79 for further circumstances in which the duty in section 68 comes to an end.

## **70 Priority need for accommodation**

- (1) The following persons have a priority need for accommodation for the purposes of this Chapter—
  - (a) a pregnant woman or a person with whom she resides or might reasonably be expected to reside;
  - (b) a person with whom a dependent child resides or might reasonably be expected to reside;
  - (c) a person—
    - (i) who is vulnerable as a result of some special reason (for example: old age, physical or mental illness or physical or mental disability), or
    - (ii) with whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside;
  - (d) a person—
    - (i) who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster, or
    - (ii) with whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside;
  - (e) a person—
    - (i) who is homeless as a result of being subject to domestic abuse, or

- (ii) with whom a person who falls within sub-paragraph (i) resides (other than the abuser) or might reasonably be expected to reside;
- (f) a person—
  - (i) who is aged 16 or 17 when the person applies to a local housing authority for accommodation or help in obtaining or retaining accommodation, or
  - (ii) with whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside;
- (g) a person—
  - (i) who has attained the age of 18, when the person applies to a local housing authority for accommodation or help in obtaining or retaining accommodation, but not the age of 21, who is at particular risk of sexual or financial exploitation, or
  - (ii) with whom a person who falls within sub-paragraph (i) resides (other than an exploiter or potential exploiter) or might reasonably be expected to reside;
- (h) a person—
  - (i) who has attained the age of 18, when the person applies to a local housing authority for accommodation or help in obtaining or retaining accommodation, but not the age of 21, who was looked after, accommodated or fostered at any time while under the age of 18, or
  - (ii) with whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside;
- (i) a person—
  - (i) who has served in the regular armed forces of the Crown who has been homeless since leaving those forces, or
  - (ii) with whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside;
- (j) a person who has a local connection with the area of the local housing authority and who is vulnerable as a result of one of the following reasons—
  - (i) having served a custodial sentence within the meaning of section 76 of the Powers of Criminal Courts (Sentencing) Act 2000,
  - (ii) having been remanded in or committed to custody by an order of a court, or
  - (iii) having been remanded to youth detention accommodation under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012,

or a person with whom such a person resides or might reasonably be expected to reside.

(2) In this Chapter—

“looked after, accommodated or fostered” (*“yn derbyn gofal, yn cael ei letya neu’n cael ei faethu”*) means—

- (a) looked after by a local authority (within the meaning of section 74 of the Social Services and Well-Being (Wales) Act 2014 or section 22 of the Children Act 1989),
- (b) accommodated by or on behalf of a voluntary organisation,
- (c) accommodated in a private children’s home,
- (d) accommodated for a continuous period of at least three months—
  - (i) by any Local Health Board or Special Health Authority,

- (ii) by or on behalf of a clinical commissioning group or the National Health Service Commissioning Board,
- (iii) by or on behalf of a county or county borough council in Wales in the exercise of education functions,
- (iv) by or on behalf of a local authority in England in the exercise of education functions,
- (v) in any care home or independent hospital, or
- (vi) in any accommodation provided by or on behalf of an NHS Trust or by or on behalf of an NHS Foundation Trust, or
- (e) privately fostered (within the meaning of section 66 of the Children Act 1989).

(3) In subsection (2)—

“care home” (*“cartref gofal”*) has the same meaning as in the Care Standards Act 2000;

“clinical commissioning group” (*“grŵp comisiynu clinigol”*) means a body established under section 14D of the National Health Service Act 2006;

“education functions” (*“swyddogaethau addysg”*) has the meaning given by section 597(1) of the Education Act 1996;

“independent hospital” (*“ysbyty annibynnol”*)—

- (a) in relation to Wales, has the meaning given by section 2 of the Care Standards Act 2000, and
- (b) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section;

“local authority in England” (*“awdurdod lleol yn Lloegr”*) means—

- (a) a county council in England,
- (b) a district council for an area in England for which there is no county council,
- (c) a London borough council, or
- (d) the Common Council of the City of London;

“Local Health Board” (*“Bwrdd Iechyd Lleol”*) means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.

## 71 Meaning of vulnerable in section 70

(1) A person is vulnerable as a result of a reason mentioned in paragraph (c) or (j) of section 70(1) if, having regard to all the circumstances of the person’s case—

- (a) the person would be less able to fend for himself or herself (as a result of that reason) if the person were to become street homeless than would an ordinary homeless person who becomes street homeless, and
- (b) this would lead to the person suffering more harm than would be suffered by the ordinary homeless person;

this subsection applies regardless of whether or not the person whose case is being considered is, or is likely to become, street homeless.

(2) In subsection (1), “street homeless” (*“digartref ac ar y stryd”*), in relation to a person, means that the person has no accommodation available for the person’s occupation in the United Kingdom or elsewhere, which the person—

- (a) is entitled to occupy by virtue of an interest in it or by virtue of an order of a court,
  - (b) has an express or implied licence to occupy, or
  - (c) occupies as a residence by virtue of any enactment or rule of law giving the person the right to remain in occupation or restricting the right of another person to recover possession;
- and sections 55 and 56 do not apply to this definition.

## **72 Power to amend or repeal provisions about priority need for accommodation**

- (1) The Welsh Ministers may by order—
  - (a) make provision for and in connection with removing any condition that a local housing authority must have reason to believe or be satisfied that an applicant is in priority need for accommodation before any power or duty to secure accommodation under this Chapter applies;
  - (b) amend or omit the descriptions of persons as having a priority need for accommodation for the purposes of this Chapter;
  - (c) specify further descriptions of persons as having a priority need for accommodation for the purposes of this Chapter.
- (2) An order under subsection (1) may amend or repeal any provision of this Part.
- (3) Before making an order under this section the Welsh Ministers must consult such associations representing councils of counties and county boroughs in Wales, and such other persons, as they consider appropriate.

## **73 Duty to help to secure accommodation for homeless applicants**

- (1) A local housing authority must help to secure that suitable accommodation is available for occupation by an applicant, if the authority is satisfied that the applicant is—
  - (a) homeless, and
  - (b) eligible for help.
- (2) But the duty in subsection (1) does not apply if the authority refers the application to another local housing authority (see section 80).

## **74 Circumstances in which the duty in section 73 ends**

- (1) The duty to an applicant under section 73 comes to an end in any of the circumstances described in subsections (2), (3), (4), or (5), if the applicant has been notified in accordance with section 84.
- (2) The circumstances are the end of a period of 56 days.
- (3) The circumstances are that before the end of a period of 56 days the local housing authority is satisfied that reasonable steps have been taken to help to secure that suitable accommodation is available for occupation by the applicant.
- (4) The circumstances are that the local housing authority is satisfied (whether as a result of the steps it has taken or not) that—
  - (a) the applicant has suitable accommodation available for occupation, and

- (b) the accommodation is likely to be available for occupation by the applicant for a period of at least 6 months.
- (5) The circumstances are that—
  - (a) the applicant, having been notified of the possible consequence of refusal or acceptance of the offer, refuses an offer of accommodation from any person which the authority is satisfied is suitable for the applicant, and
  - (b) the authority is satisfied that the accommodation offered is likely to be available for occupation by the applicant for a period of at least 6 months.
- (6) The period of 56 days mentioned in subsections (2) and (3) begins on the day the applicant is notified under section 63 and for this purpose the applicant is to be treated as notified on the day the notice is sent or first made available for collection.
- (7) The period of 6 months mentioned in subsection (4)(b) and (5)(b) begins on the day the notice under section 84 is sent or first made available for collection.
- (8) See section 79 for further circumstances in which the duty in section 73 comes to an end.

**75 Duty to secure accommodation for applicants in priority need when the duty in section 73 ends**

- (1) When the duty in section 73 ( duty to help to secure accommodation for homeless applicants) comes to an end in respect of an applicant in the circumstances mentioned in subsection (2) o r (3) of section 74, the local housing authority must secure that suitable accommodation is available for occupation by the applicant if subsection (2) or (3) (of this section) applies.
- (2) This subsection applies where the local housing authority—
  - (a) is satisfied that the applicant—
    - (i) does not have suitable accommodation available for occupation, or
    - (ii) has suitable accommodation, but it is not likely that the accommodation will be available for occupation by the applicant for a period of at least 6 months starting on the day the applicant is notified in accordance with section 84 that section 73 does not apply,
  - (b) is satisfied that the applicant is eligible for help,
  - (c) is satisfied that the applicant has a priority need for accommodation, and
  - (d) if the authority is having regard to whether or not the applicant is homeless intentionally (see section 77), is not satisfied that the applicant became homeless intentionally in the circumstances which gave rise to the application;
- (3) This subsection applies where the local housing authority is having regard to whether or not the applicant is homeless intentionally and is satisfied that—
  - (a) the applicant became homeless intentionally in the circumstances which gave rise to the application,
  - (b) the applicant—
    - (i) does not have suitable accommodation available for occupation, or
    - (ii) has suitable accommodation, but it is not likely that the accommodation will be available for occupation by the applicant for a period of at least 6 months starting on the day on which the applicant is notified in accordance with section 84 that section 73 does not apply,



- (c) the applicant is eligible for help,
  - (d) the applicant has a priority need for accommodation,
  - (e) the applicant is—
    - (i) a pregnant woman or a person with whom she resides or might reasonably be expected to reside,
    - (ii) a person with whom a dependent child resides or might reasonably be expected to reside,
    - (iii) a person who had not attained the age of 21 when the application for help was made or a person with whom such a person resides or might reasonably be expected to reside, or
    - (iv) a person who had attained the age of 21, but not the age of 25, when the application for help was made and who was looked after, accommodated or fostered at any time while under the age of 18, or a person with whom such a person resides or might reasonably be expected to reside, and
  - (f) the authority has not previously secured an offer of accommodation to the applicant under this section following a previous application for help under this Chapter, where that offer was made—
    - (i) at any time within the period of 5 years before the day on which the applicant was notified under section 63 that a duty was owed to him or her under this section, and
    - (ii) on the basis that the applicant fell within this subsection.
- (4) For the purpose of subsections (2)(a)(ii) and (3)(b)(ii), the applicant is to be treated as notified on the day the notice is sent or first made available for collection.

## **76 Circumstances in which the duty in section 75 ends**

- (1) The duty to an applicant under section 75(1) comes to an end in any of the circumstances described in subsections (2), (3), (6) or (7), if the applicant has been notified in accordance with section 84.
- (2) The circumstances are that the applicant accepts—
  - (a) an offer of suitable accommodation under Part 6 of the Housing Act 1996 (allocation of housing), or
  - (b) an offer of suitable accommodation under an assured tenancy (including an assured shorthold tenancy).
- (3) The circumstances are that the applicant, having been given notice in writing of the possible consequence of refusal or acceptance of the offer, refuses—
  - (a) an offer of suitable interim accommodation under section 75,
  - (b) a private rented sector offer, or
  - (c) an offer of accommodation under Part 6 of the Housing Act 1996,
 which the authority is satisfied is suitable for the applicant.
- (4) For the purposes of this section an offer is a private rented sector offer if—
  - (a) it is an offer of an assured shorthold tenancy made by a private landlord to the applicant in relation to any accommodation which is available for the applicant's occupation,

- (b) it is made, with the approval of the authority, in pursuance of arrangements made by the authority with the landlord with a view to bringing the authority's duty under section 75 to an end, and
  - (c) the tenancy being offered is a fixed term tenancy for a period of at least 6 months.
- (5) In a restricted case, the local housing authority must, so far as reasonably practicable, bring its duty to an end by securing a private rented sector offer; for this purpose, a "restricted case" means a case where the local housing authority would not be satisfied as mentioned in section 75(1) without having regard to a restricted person (see section 63(5)).
- (6) The circumstances are that the local housing authority is satisfied that the applicant has become homeless intentionally from suitable interim accommodation made available for the applicant's occupation—
  - (a) under section 68 and which continues to be made available under section 75, or
  - (b) under section 75.
- (7) The circumstances are that the local housing authority is satisfied that the applicant has voluntarily ceased to occupy as his or her only or principal home, suitable interim accommodation made available for the applicant's occupation—
  - (a) under section 68 and which continues to be made available under section 75, or
  - (b) under section 75.
- (8) See section 79 for further circumstances in which the duty in section 75(1) comes to an end.
- (9) In this section "fixed term tenancy" has the meaning given by Part 1 of the Housing Act 1988.

## **77 Meaning of intentionally homeless**

- (1) A person is intentionally homeless for the purpose of this Chapter if subsection (2) or (4) apply.
- (2) This subsection applies if the person deliberately does or fails to do anything in consequence of which the person ceases to occupy accommodation which is available for the person's occupation and which it would have been reasonable for the person to continue to occupy.
- (3) For the purposes of subsection (2) an act or omission in good faith on the part of a person who was unaware of any relevant fact may not be treated as deliberate.
- (4) This subsection applies if—
  - (a) the person enters into an arrangement under which the person is 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 help under this Chapter,
 and there is no other good reason why the person is homeless.

**78 Deciding to have regard to intentionality**

- (1) The Welsh Ministers must, by regulations, specify a category or categories of applicant for the purpose of this section.
- (2) A local housing authority may not have regard to whether or not an applicant has become homeless intentionally for the purposes of sections 68 and 75 unless—
  - (a) the applicant falls within a category specified under subsection (1) in respect of which the authority has decided to have regard to whether or not applicants in that category have become homeless intentionally, and
  - (b) the authority has published a notice of its decision under paragraph (a) which specifies the category.
- (3) Subsection (4) applies where a local housing authority has published a notice under subsection (2) unless the authority has—
  - (a) decided to stop having regard to whether or not applicants falling into the category specified in the notice have become homeless intentionally, and
  - (b) published a notice of its decision specifying the category.
- (4) For the purposes of section 68 and 75, a local housing authority must have regard to whether or not an applicant has become homeless intentionally if the applicant falls within a category specified in the notice published by the authority under subsection (2).

**79 Further circumstances in which the duties to help applicants end**

- (1) The duties in sections 66, 68, 73 and 75 come to an end in the circumstances described in subsection (2), (3), (4) or (5), if the applicant is notified in accordance with section 84.
- (2) The circumstances are that the local housing authority is no longer satisfied that the applicant is eligible for help.
- (3) The circumstances are that the local housing authority is satisfied that a mistake of fact led to the applicant being notified under section 63 that the duty was owed to the applicant.
- (4) The circumstances are that the local authority is satisfied that the applicant has withdrawn his or her application.
- (5) The circumstances are that the local housing authority is satisfied that the applicant is unreasonably failing to co-operate with the authority in connection with the exercise of its functions under this Chapter as they apply to the applicant.