



## SCOTLAND – FACT SHEET NO 11

### HOMELESS – WHAT SHOULD I DO?

#### WHAT HELP CAN YOU GET?

Councils have an obligation to help certain people find accommodation. Their responsibility is set out in **The Housing (Scotland) Act 1987** (as amended) and **The Housing Scotland Act 2001**.

Your council must re-house you if it decides you:

- are eligible for assistance;
- are homeless;
- are in 'priority need';
- have not made yourself 'intentionally homeless'; **and**
- have a local connection.

The council must check whether you fit these criteria before deciding what help it can give you. The council must make sure that housing advice is available and free.

#### ARE YOU HOMELESS?

If you are threatened with homelessness in the next two months the council should treat you as if you are homeless.

You are homeless if you are without accommodation in the UK or elsewhere but you can be counted as homeless even if you are not literally without a roof over your head.

You can be considered homeless if:

- you are unable to remain in, or gain access to, the place where you are living;
- you live somewhere which is totally unsuitable;

- the accommodation is below a 'tolerable standard';
- you are in short stay accommodation such as a hostel or women's refuge;
- your accommodation is unsuitable for health reasons;
- you live in a mobile home or boat and there is nowhere to put it;
- where you live is 'statutorily overcrowded' and living there might pose a danger to you; **or**
- occupying your accommodation is likely to lead to violence or threats of violence carried out by a person who used to live with you (whether at that address or previously) or is still living at that address. This also applies to external violence (including racial or other violence).

#### ARE YOU IN PRIORITY NEED?

You are considered to be in priority need if you:

- have dependent children living with you;
- are pregnant or live with someone who is pregnant;
- are homeless as a result of a flood, fire or other disaster;
- are classed as 'vulnerable' or are living with someone who is vulnerable due to such things as old age, mental illness or learning disability, physical disability or chronic ill health or other special reason;
- have been discharged from hospital, prison or the armed forces;

- are in need for an ‘other special reason’, e.g. for young people who have previously been in local care or are at risk from exploitation or involvement with drugs;
- are in fear of domestic violence, or have recently suffered a miscarriage or abortion;  
**or**
- are at risk of violence or harassment due to your ethnic origin, religion or sexual orientation.



### INFORMATION

You may also be due help if the person that you want to live with is homeless and in priority need. It has to be reasonable that you expect to live with the other person, for example, if they are your partner or parent.

## ARE YOU INTENTIONALLY HOMELESS?

The council will decide that you are ‘intentionally homeless’ if:

- you had somewhere where it was reasonable for you to continue to live, but you deliberately chose to leave or otherwise give up the property;
- you have left somewhere where you could have continued to live, **solely** in order to get some help from the council; or
- there is suitable accommodation available to you in your area but you have not taken it.

You should **not** be found ‘intentionally homeless’ if:

- you left home because you felt threatened with violence;
- your home was repossessed due to arrears which arose because you could not afford to pay your rent or mortgage. You need to

show you were in real financial difficulties and that your income could not have covered your rent or mortgage payments and basic living expenses;

- you have failed to exercise your rights to your home under the matrimonial homes legislation;
- the conditions in your home were so bad that you could not remain and it would have been unreasonable to expect you to stay; or
- you lost your home through someone else’s actions which you did not know about or had no control over.

## DO YOU HAVE A LOCAL CONNECTION?

The council looks at whether you have a local connection to its area. If you have no local connection with the authority where you have applied for help then you can be referred to an area in England, Scotland or Wales where you do have a local connection.

You will have a local connection if you:

- have lived in the area for some time, usually six months out of the last year or three out of the last five years;
- work in the area;
- want to live near a close friend who has lived in the area for some time; or
- have special circumstances applying which form the basis of a local connection.

If you have a local connection with more than one area then you should not usually be referred back to another council. If you have no local connection with the council you have applied to for re-housing (**council A**), it must ask another council to help you. If you have no local connection with another area (for example, you may have just come from abroad) then **council A** must help you.

## ARE YOU ELIGIBLE FOR ASSISTANCE?

You will be treated as eligible for assistance unless you are 'a person from abroad'. If you are from abroad, in order for the council to help you, you must have:

- refugee status;
- settled immigration status; **or**
- exceptional leave to enter and remain.

### **WARNING**

If you have accommodation, even if it is temporary, and you are a refugee or asylum seeker, you may not be eligible for assistance. If you are in this situation, contact Shelterline or a local housing advice centre for advice (see the 'Useful addresses' section).

## WHAT HELP DOES THE COUNCIL HAVE TO GIVE YOU?

If the council thinks that you may be homeless and eligible for assistance it **must** secure temporary accommodation for you while it decides, and if you ask for a review of a decision, until the outcome of that review.

If the council decides that you are homeless and eligible for assistance and in priority need, but that you are intentionally homeless, it must provide you with temporary accommodation to give you a reasonable opportunity (at least 28 days) to secure alternative accommodation for yourself.

If the council decides that you are homeless, eligible for assistance and in priority need, and not intentionally homeless, it may:

- refer you to another local authority if you do not have a local connection with its council area; it cannot refer you to another local

authority if there is a risk of domestic violence; **or**

- make sure that you have accommodation.

### **WARNING**

The council no longer has to help you if:

- you refuse to take up an offer of accommodation (although if this offer is unsuitable, you can ask the council to look at the offer again). Explain why you think the accommodation is not suitable for you, e.g. it is too far from school or work or because of your health or any risk of violence;
- you stop being 'eligible for assistance'; or
- you stop being in priority need.

## MAKING THE APPLICATION

Try to go to an advice agency before you make your application because it will be able to make sure you know what your rights are. Your application will be dealt with by the housing department in your local council. There are two routes to being housed by the council; one is by putting your name on the waiting list and the other is by applying as homeless.

### **ADVICE**

If you want to apply as homeless, make this clear when you go to the housing department and ask to speak to the person who deals with homelessness.

The department should try to make your initial assessment on the day you apply or on the first working day after your visit, if you apply out of office hours. Enquiries should be completed within **28 days**.

The council should have an emergency telephone number which you can call if it is out of office

hours. This number might be on its answerphone. Alternatively you could ask at a police station.

When you go to the council you will be asked for information about your circumstances. Take any important papers with you, such as any court order you have been served. The council will want to ask questions about how soon you are likely to become homeless and try and establish whether you are in a priority need group.

## IF YOU ARE REFUSED HELP, WHAT CAN YOU DO?

If you are not happy with the way that the council deals with your enquiry then seek help from a local advice agency. It will be able to check whether you have been given the correct information. If you make an application but the council says it is not going to help you it should give you a decision, in writing, telling you the reason (a notification letter).

### **ADVICE**

If the council tells you that you can't make an application for re-housing as homeless, contact a local advice agency, ring Shelterline or **phone us for advice**.

### **WARNING**

This should advise you of your right to request a review and where you can get advice. You normally have **21 days** from the date of the decision to ask for a review.

### **REMEMBER**

It is very important to put your name on the council waiting list.

The council can be challenged if it looks as if it made a wrong decision. If you ask for a review the decision must be looked at by a senior officer who was not previously involved in your case. You must be told the outcome in writing.

## Getting re-housed

Many councils will only make one offer of accommodation. The accommodation you are offered does not have to be council owned. It is very likely to be provided by a housing association.

### **ADVICE**

If you have told the council that you are homeless and it has made an error in law, you can apply for a judicial review at the court of session. Before doing this you must get advice from a legal aid solicitor or law centre.

### **WARNING**

Do not refuse an offer without getting advice first.

## OTHER HOUSING OPTIONS

### What happens to your belongings?

If you are homeless and in priority need, the council must help you look after your property if it might get damaged or lost. The council may also help you to look after your property if you are not in priority need. The council usually charges you for storage of your furniture and possessions.

### The council waiting list

You can go on the waiting list at the same time as applying for re-housing as a homeless person. The council has to have a scheme for deciding who should be given priority in allocating council housing, and the procedure for how this is done.

Councils have to give 'reasonable preference' to certain groups such as:

- people in overcrowded, or unsanitary accommodation;
- people in temporary, or insecure accommodation;
- people with dependent children, or a pregnant woman;
- households with someone who needs settled accommodation because they are ill or disabled; **and**
- people who find it difficult to get settled, secure accommodation.

Someone who is single and already has somewhere to live may wait a long time to be offered accommodation.

## Housing associations

Housing associations may be able to offer good accommodation at an affordable price. Some will only let you apply if you already have your name on the council's waiting list. They may have their own criteria for people whom they will house first.

Some associations are set up to help certain groups of people, such as the elderly or low income families. The council should be able to give you a list of housing associations in your area. Communities Scotland is the national body for housing associations and should be able to provide you with a local list.



### HELP

Contact details for Communities Scotland are in the 'Useful addresses' section at the end of this fact sheet.

## Private landlords

Private landlords often advertise in the newspapers or in a shop window. Some choose to let the property via an estate agent or property agent.

If you decide to rent privately look around first to find out what is on offer in your area and get an idea of what sort of rents are being charged.

You may need to find out from a local advice agency what maximum rent will be covered by housing benefit in your area. The agency may also keep lists of local landlords. Have a look at the house before you agree to move in or hand over any money. Ask for a receipt for any money you pay as rent or as a deposit.



### WARNING

There are different types of private tenancy agreements. Your rights are affected by the type of tenancy you take and what sort of accommodation you have. Before signing an agreement with a landlord get advice from a local advice agency or Shelterline.

## Help with deposits

In some areas, rental deposit, or 'bond' schemes have been set up to help people on low income or benefits to find private rented accommodation. Under the scheme you do not have to pay a deposit up front and the tenancy agreement is with a landlord from an approved list. Schemes vary so contact a local advice agency or Shelterline for more information.

## Help with rent

You should ask the council for a 'pre-tenancy determination' before you move in. This should tell you how much of your rent will be covered by Housing Benefit (rent rebate) if you are on a low income. You can apply to the council for

Housing Benefit to cover the rent and Council Tax Benefit to help with Council Tax once you have moved in.

## USEFUL ADDRESSES

It is very important to get advice about your housing situation. Help may be available from the following agencies.

### Housing aid centres

There may be a housing aid centre in your area. For the address of your nearest housing centre phone Shelterline on **0800 800 4444** or look at the Shelter website [www.shelterscotland.org.uk](http://www.shelterscotland.org.uk)

### Citizens advice bureaux

The address of your local citizens advice bureau should be in the telephone directory. You can also check the CAB website [www.cas.org.uk](http://www.cas.org.uk)

### Law centres

There may be a law centre locally who deals with housing issues. Look in your phone book or contact:

### Scottish Association of Law Centres

[www.govanlc.com/salc/](http://www.govanlc.com/salc/)

### Communities Scotland

Thistle House  
91 Haymarket Terrace  
Edinburgh  
EH12 5HE

**Tel: 0131 313 0044**

[www.communitiesscotland.gov.uk](http://www.communitiesscotland.gov.uk)

### Solicitors

Some solicitors give advice on housing issues. If you are on Working Tax Credit, Income Support, Job Seeker's Allowance, Pension Credit or a very low income, you may be eligible for legal aid, otherwise you may have to pay to see a solicitor. For a local housing solicitor contact The Law Society of Scotland or check in your local library.

### The Law Society of Scotland

26 Drumsheugh Gardens  
Edinburgh  
EH3 7YR

**Tel: 0131 226 7411**

[www.lawscot.org.uk](http://www.lawscot.org.uk)

**Remember: You can always contact us for advice about any difficulty you have in dealing with your debts.**

**Freephone 0808 808 4000 Website [www.nationaldebtline.co.uk](http://www.nationaldebtline.co.uk)**

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