

Eastbourne Borough Council

Council Duties to Homeless People

The law states that local authorities must give specific types of help to certain households if they become homeless. This is set down in Part 7 of the Housing Act 1996, which was amended by the Homelessness Act 2002.

A household can be a single person applying for housing on their own, or people who normally live together, usually a family or extended family.

Below are the five steps that we will take to decide what help we will give to someone who is homeless or about to become homeless.

In certain circumstances households are entitled to help from their local Council if they become homeless or threatened with homelessness. The following criteria must be met:

1. The household must be “eligible for assistance”

Unless you are:

- a British citizen; or
- a Commonwealth citizen with right of abode in the UK; or
- a citizen of a member country within the European Economic Area

You will be a ‘subject to immigration control’. This means you will not be ‘eligible for housing assistance’ unless

- you have been granted refugee status in the UK; or
- you have exceptional leave to remain in the UK which is not subject to you maintaining yourself and your dependents without recourse to public funds; or
- you have leave to remain in the UK which is not subject to any time limit or condition.

All asylum seekers are subject to immigration control. If you are an asylum seeker and you are ineligible for housing assistance, you may be entitled to help from Social Services.

Legislation regarding who is ‘eligible for housing assistance’ is complex. If in doubt, a Senior Housing Officer will provide advice.

2. You, or your household, must be homeless, or threatened with homelessness within 28 days.

This means that you have no accommodation anywhere in the world which you are entitled to occupy, or which it is reasonable for you to occupy.

It is not necessary for a household to have no home at all for them to be considered homeless if their living conditions are unreasonable.

For example, if you have to use a wheelchair within your home, you may be considered to be homeless if stairs inside your home make it inaccessible to you. Similarly, you may be homeless if you are at risk of violence in your current home.

We may also be able to help you if you are threatened with homelessness. This includes people who have been served with a valid notice to quit their home. The document 'Brief Note on Tenancies' gives some information about this.

3. The household must be in priority need.

This means that you, or a member of your family, should either:

- a.) usually live with a dependent child or children, or
- b.) be pregnant, or
- c.) be vulnerable due to:
 - old age
 - youth (i.e. aged 16-17)
 - mental or physical illness or disability
 - violence in the home
 - being an ex-offender who is likely to re-offend if not adequately housed, or
- d.) be homeless as a result of an emergency, such as a fire or flood.

4. The household must not be intentionally homeless.

This means that you must not have deliberately done something or failed to do something which directly results in the loss of accommodation which it would otherwise have been reasonable for you to continue to occupy.

Usual examples of intentional homelessness include:

- Deliberate failure to pay rent or mortgage
- Deliberate nuisance, destruction of property, anti-social behaviour

5. The household must have a local connection with the area.

This means that you or your household must either:

- 1.) have lived in the area for six months out of the last twelve months or for three years out of the last five years, or
- 2.) have a permanent job in the area, or
- 3.) require support from close members of the family who have lived in this area for at least five years, or
- 4.) in exceptional circumstances, have a special circumstance which constitutes a local connection, such as returning to the area after many years abroad.

If you, or your household, have no local connection anywhere, you are entitled to assistance from the local authority you apply to.

If it is unsafe for you to remain in the only area in which you have a local connection, for example if you are the victim of violence, then the local authority cannot insist that you return there.

Our duties to applicants who meet all these criteria

If you, or your household, fulfill all five criteria, the Council has a duty to ensure that reasonable accommodation is made available to you. This may involve giving advice and assistance to enable you to find accommodation for yourselves. If this is unsuccessful or not appropriate, the Council has a duty to arrange temporary accommodation.

The Council can do this in a wide number of ways including:

- providing a Council tenancy on a temporary basis
- nominating you to a Housing Association for housing
- financial assistance to allow you to secure a tenancy in the private sector, or
- referring you to a specialist housing organisation.

The Council cannot offer a secure Council tenancy or an Assured Housing Association tenancy to you unless you are eligible for such housing under its Homemove Policy.

In Eastbourne we operate a lettings scheme called Homemove. This gives people the chance to choose the housing they would like to move to. People bid for properties. Offers of properties through the Homemove scheme are made to those people entitled to bid for them who have been waiting the longest. This means that if you are homeless, unless you have already waited longer than other people bidding for the property, you cannot be offered a secure or assured tenancy. We can however offer you a non-secure tenancy which can be converted into a secure tenancy when you have reached the top of the waiting list.

Similarly, a housing association can offer an assured short-hold tenancy, which can be converted to an assured tenancy, when the Council consider you are eligible under the Homemove rules. In practice, however, very few housing associations are willing to do this.

Duties to applicants who do not meet all these criteria

If you or your household meets the first four criteria but have no local connection, the Council can refer you to the area with which you do have a local connection. Provided the local connection is properly established, that Authority must accept the duty to re-house you. Eastbourne will be responsible for providing temporary accommodation

if necessary until the Authority where you have a local connection is able to re-house you.

If you or your household meet the first three criteria but have become homeless intentionally, the Council has a duty to provide temporary accommodation only for such time as is reasonable to allow you to find accommodation for yourselves. This is usually considered to be approximately 28 days. We also have a duty to provide advice and assistance to help you to find accommodation.

In some circumstances, Social Services may have a duty to help you, for example if you have a child who will be at risk if you have nowhere to live, or if you have a severe mental or physical health problems which will put your safety at risk if you do not have somewhere suitable to live.

If you or your household do not meet the second criteria and are not considered to be in priority need, the Council has no duty to provide temporary accommodation, but must offer advice and assistance to help you find accommodation for yourselves. In Eastbourne, we work closely with many other agencies to ensure that we give as full advice as possible. For example, we refer people to Brighton Housing Trust. We also work closely with private landlords.

Investigating an application

When you present to the Customer Contact Centre for Housing Advice claiming to be homeless because of a tenancy problem, it is the Housing Needs Officers (HNO) job to take all the details of the case and unpick it to see whether homelessness can be prevented.

This will usually involve looking at all documentation relating to the tenancy (if it exists) and ensuring that, for instance, the correct notice has been served in the correct way. It may be necessary for the HNO to contact the landlord to get their side of the story and, if possible, try to get independent corroboration if the stories don't match. For example, a landlord might claim that the rent is in arrears but you state that it is not. A call to housing benefits can often resolve the issue. If the landlord claims the property has been trashed, it might be necessary to make a home visit to decide whether the damage is more than just fair wear and tear.

We endeavour to make the fullest enquiries we can so that we are satisfied that our decision is correct. Certain enquiries are not appropriate, such as contacting an alleged perpetrator of domestic violence. In cases of violence, we will contact the police or social services or any other agency involved to get their side of the story. If the alleged victim has not disclosed to anyone else, then we are usually obliged to take their word for it, unless we get clear evidence to the contrary.

Once we are satisfied that we have all the information, we then make a decision on whether we have a duty to assist you with accommodation. This decision will be sent to you in writing. If you do not agree with this decision, there is a right of appeal,

which is called a review, and needs to be submitted within 21 days of the date of the decision letter. In this event, a Senior Housing Officer will go through the file and check that all the information is correctly recorded and that the decision was a reasonable one. If the Senior Housing Officer upholds the decision, there is no further right of appeal through Eastbourne Borough Council and the next stage would be for you to seek independent legal advice.

Homeless people who the Local Authority have no duty to re-house

The Council has no duty to provide emergency accommodation for people who do not meet the criteria of "priority need". We are however committed to providing a good service to all residents.