

# Citizens Advice Camden, GOSH

## Information Sheet 6: Housing and Homelessness

020 7829 8896

### *Take home message*

- *Local authorities (councils) have duties under the Housing Act 1996 to run housing allocations schemes - this replaces what was commonly known as the housing waiting list*
- *They must also house certain homeless people*
- *Every local authority has its own policies but these must be in accordance with the general statutory rules and must not be applied in too rigid a fashion*
- *Unlawful housing decisions and policies can be challenged*
- *There are things healthcare professionals can do in housing applications to promote the health and well-being of their patients*

### *What is housing law?*

- This sheet covers the duties of local authorities (councils) to provide accommodation to certain homeless people and to run housing allocations schemes.
- It does not cover the rights and duties of landlords and tenants. That branch of law is generally referred to as 'landlord and tenant law'.

### *People from abroad*

- People who have no recourse to public funds restrictions on their visas and EEA and Swiss nationals without a right to reside (or whose only right to reside is as a jobseeker) are generally ineligible for housing assistance. Applications can put foreign nationals' immigration status at risk. To avoid destitution, such families may need to rely on the Children Act. See Sheets 7 and 8 and refer any people from abroad to us.

### *The Housing Act 1996*

- The duties of local authorities to provide public housing assistance are found in the Housing Act 1996.
- Part VI of that Act lays down rules for the allocations schemes.
- Part VII contains the homelessness duty.

### *Part VI: housing allocations*

- Every council runs its own housing allocations scheme.
- Each scheme is different but must comply with the basic statutory provisions and all schemes tend to have similar features.
- A scheme will usually be a points-based scheme or banding scheme. In either scheme, the more points you have, or the higher the band you are in, means that you have more priority.
- There is a major shortage of housing, especially in London. Someone may be waiting for years before being allocated a property.
- A scheme will either be officer-led, where a housing officer decides which property a person should be allocated according to their need, or more commonly choice-led, where the applicant bids for properties which become available.

### *Getting priority*

- The scheme sets out how to score points or move into a higher band. Each scheme must give ‘reasonable preference’ to certain groups of people, which means they are given priority overall. These are:
  - People who are homeless within the meaning of Part VII of the Act
  - People living in insanitary or overcrowded conditions
  - People who need to move on medical or welfare grounds
  - People who need to move to a particular area and failure to meet that need would cause hardship
- Families at GOSH are very commonly given priority because of their child’s medical needs and the unsuitability of their current housing conditions. A child with a respiratory condition, for example, may be living in a damp, mouldy and dusty home. Another common example is a child who is immunosuppressed living in overcrowded conditions that pose an infection risk.

### *Allocating a new home*

- If an applicant is allocated a home, they will either be given a secure, flexible or introductory tenancy in a property owned by the local authority or a social landlord such as a housing association.
- The applicant will then be liable for rent and all the other duties tenants normally have.

### *Part VII: homelessness*

- In order to be owed the homelessness duty, an applicant must satisfy the five legal tests. The applicant must be:
  - Eligible - i.e. not have a no recourse restriction and have a right to reside. See Sheet 8. Foreign nationals should be referred to us.
  - Homeless or threatened homeless. You do not need to be street homeless. If you have no legal rights to live where you are (e.g. because your landlord has refused to renew your tenancy) or if it would be unreasonable to continue occupying your current home, you are legally homeless.
  - Have priority need - see below.
  - Not be intentionally homeless - see below.
  - Have a local connection to the area served by the local authority where the application was made, such as living or working there.

### *Priority need*

- There are a number of different categories of people who have priority need. These include:
  - Someone who is pregnant or who has dependant children.
  - Someone who is homeless or threatened with homelessness because of an emergency, such as a flood.
  - Young people who were previously 'looked after' and have left care.

### *Intentionally homeless*

- Someone who is deemed to be intentionally homeless will not be owed the homelessness duty. A person is intentionally homeless if they did something, or failed to do something, which caused them to become homeless; and the accommodation was otherwise available for their occupation; and it would have been reasonable to continue living there.
- Examples of things that people can do to be considered intentionally homeless are withholding rent and being evicted for that reason or selling a home when not at risk of losing it.
- Sometimes people move to London so that they can better support their child at GOSH. This is especially so with some foreign nationals. Such people are at risk of being considered intentionally homeless.

### *If the homelessness duty is owed*

- If the above five tests are met, then the applicant is owed the main homelessness duty.
- The main homelessness duty can be discharged in a number of ways. In summary, these are where the applicant accepts or refuses an offer of accommodation or where there is a change in the applicant's circumstances.
- The duty can be discharged by offering the applicant housing within the council's own housing stock, a housing association property or a tenancy with a private landlord.
- The accommodation offered does not have to be within the local authority's area. This can be particularly problematic in London.
- The accommodation offered should be suitable. Whether accommodation is suitable depends on a number of factors in relation to the applicant's needs. These include:
  - The size, location and condition of the property.
  - Whether there are any medical grounds.
  - Whether there is a risk of harassment or violence.
  - Whether the accommodation is affordable.
- **It is vital that an applicant accepts an offer of accommodation, even if they think the property is unsuitable. If they refuse, the homelessness duty may be discharged and the applicant may not be housed. It is possible to challenge suitability after accepting an offer.**

### *Emergency housing*

- If the local authority accepts that the applicant may be homeless and meet the five tests, it must offer suitable emergency, or interim, accommodation while it investigates the application. This could be somewhere like a hostel, women's refuge, a caravan, a flat or a house. What is considered 'suitable' is a lower standard than for the main duty.

### *Challenging housing decisions and policies*

- Decisions and policies of local authorities can be challenged on a number of different grounds. They may, for example, exclude certain groups of people or accommodation offered may be unsuitable. **Decisions refusing eligibility for allocation on the grounds that a person has not lived long enough in an area should be referred to us as they may be unlawful.**

### *Providing medical evidence*

- Clinicians at GOSH or elsewhere may be asked to provide medical evidence for a housing application or challenge.
- It is vital that the applicant can support their application with medical evidence. Without this, they may continue living in unsuitable accommodation which is damaging to their and their children's health.
- Please keep the following in mind if you receive a request for evidence:
  - **Please do not assume that the local authority will write to you for evidence. This will almost certainly not happen. Refusing to provide evidence because the request is not 'official' can cause delay and damage your patient's health as well as prevent the genuine effectiveness of their legal rights.**
  - **Please do not refer to 'deserving' cases or applications which you 'support'. Simply stating that you support an application does not help the local authority understand the applicant's medical needs.**
  - **Please do provide your un-biased, professional opinion.**
  - **Please do relate your patient's condition to their housing needs. Explain how their health condition means they need to move or need a particular type of housing.**
  - **If you are not sure what we are asking for, or why, do call and speak to us. We will not try to influence your evidence but we can explain the housing scheme and why your evidence is important.**

#### **Disclaimer**

**June 2016**

We have endeavoured to ensure the information in these sheets is correct at the time of print. Social security law, however, is a rapidly developing area of law and the information in these sheets may soon be out of date. No liability is accepted for their use by any party.

Any queries regarding these sheets should be directed to us on 020 7829 8896.