

PROCEDURE FOR DEALING WITH APEALS
RE; ELIGIBILITY FOR ASSISTANCE UNDER
THE HOMELESS PROVISIONS OF THE
HOUSING ACT 1996 AS AMENDED BY THE
HOMELESSNESS ACT 2002

These notes are intended for Members, Officers, Appellants when dealing with appeals relating to a person's eligibility for assistance under the Homelessness Provisions of the Housing Act 1996 as amended by the Homelessness Act 2002. These notes are intended to embody the required standards of fairness and natural justice. The Panel will consider any oral and written submissions that the appellant or the Group Director, Community Based Services wishes to make.

The recommended order of procedure is as follows:-

1. The Group Director, Community Based Services (or his representative) will explain the consideration given to the application and how the Council's duty under the Housing Act 1996 as amended has been discharged.
2. The appellant (or his/her representative) may ask questions of the Group Director, Community Based Services (or his representative).
3. Members of the Panel may also ask questions.
4. The appellant (or his/her representative) then state his/her case and which ground(s) for appeal are being cited.
5. The Group Director, Community Based Services (or his representative) and members of the Panel may question the appellant and/or his/her representative.
6. The Group Director, Community Based Services (or his representative) will ask if he/she has anything further to add in support of his representations.
7. The appellant (or his/her representative) will be asked if he/she will be asked if he or she has anything further to add in support of his/her case.
8. The Committee will then, in private consider its decision. The Chief Executive's representative(s), and the representative of the Strategic Director of Legal and Administrative Services will remain in order to advise the Committee, if necessary, on matters of law and procedure only. All other persons must leave.
9. The Committee's decision is final and binding on all parties. There is no further right to appeal within the Council.
10. The Committee's decision will be notified to all interested parties.

(NB: The Committee acts under powers delegated by the Council)

ELIGIBILITY FOR ASSISTANCE
UNDER THE HOMELESSNESS
PROVISIONS THE HOUSING ACT 1996
AS AMENDED BY THE HOMELESSNESS ACT 2002

LEGAL POSITION

Homeless Applicants

The 1996 Housing Act Part VIII makes it a duty for an authority to provide a statutory advisory service. Sufficient information should be provided to allow the applicant to secure accommodation. This could be from the Private Sector, Housing Associations or the Housing Register. Applicants to whom the Council owes a duty who are eligible, homeless, in priority need, not intentionally homeless, and having a local connection with this authority may be considered for accommodation until the duty ceases.

The current definition (Housing Act 1996 Part VIII s189) as amended by the Homelessness Act 2002 of 'priority need', where a duty is owed, as follows:

- (a) a pregnant woman or a person with whom she resides or might reasonably be expected to reside;
- (b) a person with whom dependent children reside or might reasonably be expected to reside;
- (c) a person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside;
- (d) a person who is homeless or threatened with homelessness as a result of an emergency such as a flood, fire or other disaster;
- (e) a person is aged sixteen or seventeen and is not a relevant child;
- (f) a person aged eighteen, nineteen, twenty or twenty-one who is a former relevant child;
- (g) a person who is vulnerable as a result of having been looked after, accommodated or fostered (within the meaning of Section 124 of the 1989 Act);
- (h) a person who is vulnerable as a result of having been a member of Her Majesty's regular naval, military or air forces;
- (i) a person who is vulnerable as a result of:
 - (i) having served a custodial sentence (within the meaning of Section 76 of the Power of Criminal (Court sentences Act 2000);
 - (ii) having been committed for Contempt of Court or any other criminal offence
 - (iii) having been sentenced in custody (within the meaning of Paragraph (b)(c) or (d) of Section 88(I) of that Act;
- (j) a person who is vulnerable as a result of ceasing to occupy accommodation by reason of violence from another person or threats of violence from another person which are likely to be carried out.

The Secretary of State may by order specify further descriptions of persons as having priority need for accommodation.

The Council also accepts as homeless single people and couples who are homeless in the following circumstances:

- all singles and couples assessed as homeless up to 25 years of age and considered at risk (the term at risk indicates there is a possibility of harm or danger or both);
- other single applicants if vulnerable through old age, mental illness or handicap or physical disability;

The Council will also consider applicants homeless in the following circumstances:

- Any owner forced to sell their home for financial reasons will be considered homeless subject to detailed investigation of the financial situation and the household to establish priority need.
- Any manager etc. who has a financial stake in a business where housing is provided with the business will be assessed as potentially homeless subject to a financial assessment and an investigation to establish priority need.
- The Housing Act 1996 as amended by The Homelessness Act 2002 sets out the right of the applicant to request a review of any decision as to the sustainability of accommodation. The request for a review must be made within 21 days from the date the applicant is notified of the decision.

The applicant if he is dissatisfied with the decision of the review panel may appeal to a County Court on a point of law within 21 days from the date of his being notified of the decision.