

A Shelter guide

Homeless? Read this

The rules on how
and when the council
has to help you

Shelter

Homeless? Read this

You may be entitled to help from the housing department of your local council if you don't have anywhere to live or are about to lose your home. Depending on your circumstances, they may have a legal duty to house you. You don't have to be sleeping on the streets to be entitled to help from the council.

If the council has already told you that it doesn't have to help you, use this guide to check whether the reasons given are legally correct. If they're not, you may be able to take action.

The rules can be confusing and this guide only gives an introduction to the law. You can get more detailed advice and help by calling our free housing advice helpline on 0808 800 4444, or visiting a housing aid centre, law centre or citizens advice bureau in your area. Alternatively, one of the organisations listed on page 21 may be able to help you.

This guide only applies in England or Wales. If you live in Scotland or Northern Ireland the law is different and you should contact Shelter Scotland or the Housing Rights Service (see page 21 for contact details).

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Where can I get help?

Most people who don't have anywhere to live or are about to lose their home can get help from their local council to find housing. Some people are also entitled to accommodation. If you are homeless or likely to become homeless within the next 28 days, contact your local council and tell them that you want to make a homelessness application. If you are about to become homeless, try to do this before leaving your current home.

If there is time, it may help if you go to an independent advice centre before you apply. An adviser can give you an idea of what you might be entitled to. Alternatively, they may be able to help you keep your current home – even if you are behind with your rent or mortgage, or if you've been told to leave.

If the council has already told you that it doesn't have to help, it is worth checking with an independent adviser to see whether the council have overlooked something. Read the relevant sections of this guide to check whether the reasons given are legally correct. If they're not, you may be able to take action (see page 16). If you are certain that you are not entitled to help from the council, or you want information on your other housing options, see Shelter's free guide *Finding a place to live*.

If you need to speak to an adviser immediately, call Shelter's free housing advice helpline on 0808 800 4444. Our advisers are available from 8am until midnight, seven days a week.

What will happen if I apply as homeless?

The flowchart on page 17 gives an overview of the rules on how the council has to help. If you can show you are within the legal definitions of 'homeless' (see page 6), 'eligible for assistance' (see page 7) and 'priority need' (see page 7) the council must:

- immediately find you somewhere to stay while it looks into your situation

And then:

- find somewhere for you to live longer-term if it decides that you didn't intentionally make yourself homeless (see page 11).

If you are homeless or threatened with homelessness and eligible for assistance but not in priority need and/or intentionally homeless, the council must assess your housing needs before giving you advice and assistance to help you find somewhere to live.

Applying as homeless

To apply as homeless, go to your local council's homeless persons section, which is usually part of the housing department. It may help to take a friend or adviser with you to the council for support.

Ask for the person dealing with homelessness. It is very important to make it clear that you are homeless or soon will be. One way to do this is to fill in the letter on page 19 and give it to the council. Date the letter and keep a copy. Make a note of the name of the person you speak to at the council as you may need to speak to them again. You should also take along:

- any identification you have
- proof of your income
- proof of your tenancy agreement, if you have one
- if you are being evicted, any letters you have received from your landlord/lender, or the court.

If the council office is closed there should be an emergency service. Ring the Town Hall number or ask at a police station. If you need help with this, contact Shelter's free housing advice helpline on 0808 800 4444 for assistance. Lines are open from 8am until midnight, seven days a week.

Applying as a homeless person is not the same as being on the waiting list for permanent council

housing or another council housing scheme. You may want to apply to join these waiting lists as well, so you have a better chance of getting permanent accommodation. Ask the council about the waiting list and any other schemes in the area. See Shelter's free guide *Council tenancies* for more information.

Who can apply?

If you are homeless or likely to become homeless during the next four weeks, the council must allow you to apply. But it only has to help you if you are 'eligible for assistance'. People who are not likely to be eligible for assistance are people from abroad with limits to their right to stay in the country and people seeking asylum – see page 7 for more information.

What must the council do?

The council has a legal responsibility to help people who are or soon will be homeless. How much help it has to give you depends on your situation. The flowchart on page 17 gives an overview of the rules.

While it is looking into your situation, the council may have to provide you with somewhere to live. Sometimes it will make a decision on the same day as you apply.

First, the council will check three things:

- that you are or soon will be homeless (see below)
- that you are 'eligible for assistance' (see page 7)
- that you are in one of the 'priority need' groups (see page 7).

These terms have special legal meanings. The council will ask for details about your situation so take any important papers with you, such as a court eviction order, notice from your landlord or your rent book. The council may ask to see your passport to check whether you are eligible for assistance. Usually the council will check these three things very quickly.

If there is reason to think you might be homeless and eligible for assistance and in priority need, you must be given temporary accommodation immediately while the council looks into your situation.

Make sure the information you give to the council is correct if you can. If you aren't sure, say so. Giving false information could be a criminal offence.

Am I legally homeless?

The legal definition of 'homelessness' covers more than being out on the streets. You should be considered homeless if:

- you have nowhere to live in the United Kingdom or anywhere else in the world

- you can't stay in your home because of violence or threats of violence
- you have nowhere you can live together with your family or anyone else who lives or could reasonably be expected to live with you – for example your children, partner or a carer
- you don't have permission to stay where you are – for example you are a squatter
- you've been locked out of your home and are not allowed back
- your home is a boat, mobile home or caravan and there is nowhere you are allowed to put it
- you have somewhere to live but it isn't reasonable for you to stay there. This may be because of violence, abuse, harassment or threats, serious overcrowding, very bad conditions, or because you cannot afford your housing costs.

You can also apply to the council if you are likely to become homeless within 28 days. This includes where:

- you've been taken to court by your landlord and the court has said you must leave within 28 days
- you've been living with friends or relatives and they've asked you to leave within 28 days.

If you have more than four weeks before you have to leave where you are living you should still contact the council. You should also get in

touch with an independent adviser
– call our free housing advice helpline if you can't find one in your area.

If you are leaving care, hospital, prison or the armed forces you should ask your personal adviser, the hospital social worker or probation officer to help you apply to the council. You may be in a priority group (see below right).

Am I eligible for assistance?

Most people are eligible for assistance, including refugees. However, you are probably not eligible for assistance if:

- you are an asylum seeker. Most asylum seekers get temporary housing arranged by the National Asylum Support Service, a part of the Home Office (see Shelter's free guide *Asylum seekers and Refugees* for more information)
- you are from abroad and have limited rights to remain in the UK or you have stayed longer than the time you were allowed
- you are from abroad and you aren't entitled to claim 'public funds', for example income support
- you are in the UK illegally (the council can investigate your immigration status and inform the immigration authorities if it thinks you came to the UK illegally).

EU citizens who have a right to reside in the UK will be eligible

for assistance. EU citizens from the new member states generally have to be working and registered with the Home Office to be eligible for assistance.

Some UK citizens who have lived abroad may not be eligible until they have been back in the UK for some time.

If you aren't eligible for assistance, the council don't have a duty to you under the homelessness law. But you may be entitled to help from social services. The law in this area is complicated so get advice as soon as you can. If you are subject to immigration control, you may also need to get help from an immigration specialist.

Am I in priority need?

The rules about priority need are different in England and Wales. In both countries, you are in priority need if:

- you are responsible for dependent children (usually those under 16, or under 19 if they are in full-time education or are unable to support themselves)
- you, or someone you live with, is pregnant
- you are homeless as a result of flood, fire or other disaster
- you are vulnerable (see page 8).

In **England** you are also in priority need if:

- you are 16 or 17 years old, unless

social services has a responsibility for you (see page 9)

- you are 18 to 20 and used to be in care (unless you are a student in full-time higher or further education whose accommodation is not available during the holidays, in which case social services has to help you).

In **Wales** you are also in priority need if:

- you are 16 or 17 years old
- you are 18 to 20 and used to be in care or are at risk of financial or sexual exploitation
- you can't stay in your home because of domestic violence or threats of domestic violence, or you are at risk of domestic violence if you return home
- you have been in the armed forces and have been homeless since you left
- you have been in prison or custody, have been homeless since you left and have a local connection with the area of the council that you apply to (for the definition of 'local connection', see page 12).

Vulnerable people

When deciding whether you are vulnerable, the council should look at whether your personal circumstances make it particularly difficult for you to find and keep accommodation.

For example, in **England and Wales** the council may decide

that you are vulnerable because:

- you, or someone you live with, is vulnerable because of old age
- you, or someone you live with, has a physical or mental illness or disability
- you are over 20 and are vulnerable because you have been in care
- you, or someone you live with, is vulnerable for another special reason.

In **England**, you may also be vulnerable because:

- you have been in the armed forces or prison, custody or detention in the past
- you can no longer stay in your home because someone has been violent or abusive towards you or has threatened you with violence. This includes anyone facing harassment due to her/his gender, ethnic origin or religion.

It may help if a doctor, social worker, health visitor or probation officer supports your application.

Take any medical evidence you have to the council.

Children

If your relationship has broken down and your children live with you, the council shouldn't insist upon you having a court order to prove the children's residence. If it does, contact an independent advice centre in your area, or call

Shelter's free housing advice helpline on 0808 800 4444. You may still be in priority need if:

- you share looking after your children with your ex-spouse or partner
- your children can't live with you but would do if it were not for your housing problem
- your children are in care because of your housing problems.

16- and 17-year-olds

You are in priority need if you are aged 16 or 17 unless you are in the exception below. If you are homeless because you left home, the council may check whether there is a possibility of reconciliation with your family. But it cannot make you return to a family home, particularly if it is not safe for you to do so.

In **England** you are not in priority need when you are 16 or 17 if social services has a responsibility for you. Social services will be responsible for you if:

- you are a 'relevant child'. This means that at some time from the age of 14 you were looked after by social services for at least 13 weeks and you have been looked after at some time while 16 or 17; or
- social services says you are a 'child in need' to whom it has to provide accommodation.

In both situations, social services must find you somewhere to live if you are homeless.

Care leavers

The housing department has a responsibility towards young people between 18 and 20, if after the age of 16, they have:

- lived in a hostel or voluntary housing scheme
- been in residential care
- been in foster care
- been housed by social services.

Care leavers aged over 20 may be vulnerable (see page 8 for more information).

What happens after I apply?

If you are homeless, eligible for assistance and in priority need, the council will have to check:

- that you aren't intentionally homeless (see page 11) and may then check
- whether you have a local connection in the area (see page 12).

The council must make sure that you have somewhere to live while it makes enquiries. This may mean that it arranges somewhere for you – a bed and breakfast hotel, hostel, flat or house. If you have children or are pregnant, you can only be placed in a bed and breakfast if it

is an emergency and nothing else is available. Even then, the council can usually only house you there for a maximum of six weeks.

What if the accommodation is unsuitable?

If what you are offered is unsuitable you should tell the council why. Don't refuse the offer without speaking to an independent adviser first. You can move into the property and still ask the council to review its offer. If the council doesn't change its decision, contact your local advice centre or call our helpline to check whether there is anything you can do to get more suitable accommodation.

The council may agree to you staying with friends or relatives instead, but you should check how this will affect your rights before you decide to do so. Check with a local advice centre.

The council also have a duty to look after your possessions but can make a reasonable charge for this.

When the council finishes its enquiries, it must write to tell you what its decision is and give reasons if it decides not to provide you with longer-term accommodation.

Paying for short-term accommodation

You may have to pay towards the cost of the short-term accommodation you have been

given. The charges must be reasonable. If you feel they are not, contact an independent advice centre in your area. If you are on benefits or a low income, you might be able to claim Housing Benefit to help pay for the accommodation. See Shelter's free guide *Housing Benefit* for more information.

The council won't help

The council are legally required to consider all applications properly, so don't be put off if it is being unhelpful. Always make a note of the name of the person you speak to. And, if you're not happy with the way you are treated, ask to speak to a more senior person.

Most people have a legal right to be given advice and help, even if they're not entitled to housing. The council should not turn you away without considering your application. If it decides it cannot help you or will ask another council to help you, the council must tell you why in writing.

Once you have received a written decision letter, get independent advice if you think it's unfair. Doing this can make a big difference. An adviser can check whether the council's decision has been made correctly. If it hasn't, they may be able to help you request a review or appeal to the county court (see page 16). You have rights that are

protected by law, and an adviser may be able to help you get what you're entitled to. Contact your local housing aid centre, citizens advice bureau or law centre, or call our free housing advice helpline on 0808 800 4444.

If the council says you are intentionally homeless, see below. If it says another council has to help you because you have no local connection, see page 12.

I'm not in priority need

Even if you aren't in priority need, the council must look at your housing situation. It must then advise and help you find somewhere else to live or help you keep your home. It must give you information about accommodation that suits you and should tell you about places that you could try, for example housing associations, hostels or private landlords. The council can also house you but this is unlikely to happen, especially in popular areas like London.

You should also be allowed to apply to the waiting list for permanent council housing, or other schemes the council has. If you are told you can't do this, ask the council to put it in writing and then get independent advice. If the help the council gives you does not find you a home, contact a local advice centre

to see what else might be available. For information on all your housing options see Shelter's free guide *Finding a place to live*.

Am I intentionally homeless?

The council may decide that you made yourself homeless if it believes that:

- you chose to leave a home that you could have stayed in, or
- it was your fault you lost your home, or
- you arranged to be made homeless to take advantage of the system.

If the council says that you are intentionally homeless, contact a housing aid centre or citizens advice bureau for a second opinion. The council should not say you are intentionally homeless if:

- it wasn't reasonable for you to remain in your last home, for example because of disrepair or overcrowding
- you could no longer afford the high cost of your rent or mortgage
- you left home because of violence or fear of violence
- you lost your home because of rent or mortgage arrears, which built up because of circumstances beyond your control, for example job loss, wage cut or problems with benefits

- you sold your home because you got into mortgage arrears through financial difficulties and you were going to lose your home if you didn't sell
- your home went with your job and you lost your job through no fault of your own
- you lost your home because you didn't know your rights, for example you didn't know that your landlord needed a court order to get you out, or that you could get Housing Benefit to help pay your rent
- someone else's actions made you lose your home and you didn't know what they were doing, or didn't agree with what they were doing but couldn't stop them.

If the council say you are intentionally homeless and you are in priority need, it must still house you temporarily.

If you have children, the housing department must ask you if you would like social services to help you. If you agree, they must tell social services your situation. Social services may help you find somewhere to live. They may pay for your accommodation for a short time while you look for somewhere to live, and/or they may give you money to give to a landlord for a deposit on a property. Sometimes social services will say that they can only house your children. If this happens, contact an

independent adviser in your area, or call Shelter's free housing advice helpline on 0808 800 4444.

If you don't want the council's housing department to ask social services to help you, the housing department must give you some help finding somewhere else to live, and should give you accommodation for a long enough period for you to find somewhere. You should be able to put your name on the waiting list for housing or another scheme. Ask the council what housing schemes they have. If you are told you can't join a scheme, go to a local advice centre for help.

What is a local connection?

If the council you applied to decides you are homeless, eligible for assistance, in priority need and not intentionally homeless, it will then usually check to see if you have a local connection in the area. If you have, it must find you somewhere to live.

You have a local connection with an area if you (or someone in your household):

- live, or have lived, in the area for some time – usually at least six months in the last year or three of the last five years
- have a job in the area
- have a close relative, for example parent, adult child, brother or

sister you wish to live near to, who has lived in the area for some time – usually five years

- need to live in the area for some other special reason, such as to avoid moving your children to another school or to be near a particular hospital.

Make sure that the council knows of any special reason why you need to live in its area. Time spent in the armed forces, college, prison, hospital, or special accommodation such as a refuge, will not usually count as a local connection. If you've been living in one of these places and the council says you don't have a local connection, contact a local advice centre or call Shelter's free housing advice helpline on 0808 800 4444.

I don't have a local connection

You have the right to have a homeless application assessed by any council whether or not you have a local connection with the area. Councils should not send you away simply because you have no local ties. However, once your application has been assessed, they may decide that a different council should take responsibility for you. If the council won't accept your application, call our helpline or contact an adviser in your area.

I've got ties with a different area

If the council decide that you are homeless, eligible for assistance, in priority need and not intentionally homeless but don't have a local connection with its area, it can ask another council to help you. But there are special steps that must be taken when one council is going to ask another council to house you.

If the council says that you have a connection elsewhere and you don't want to move to that area or you don't agree with the decision, get independent advice. You can't be sent there until the proper steps have been followed and the other council has agreed to help you.

I've got ties with more than one area

If you have a local connection with the council you applied to, it can't usually ask another council to house you. If you have no local connection with the council you first went to but have ties with more than one other council, you should be asked which of the areas you would prefer to live in before one of those councils is asked to house you.

I've left because of violence

Even if you have no local connection with the council you applied to, it can't send you back to an area where you would be at risk of violence or threats of violence.

I've got no local connection anywhere

If you don't have a local connection anywhere (maybe you've been in prison or hospital), the council you applied to first must help you.

How must the council help?

If the council has decided you are homeless, eligible for assistance, in priority need, not intentionally homeless and it is not referring you to another council, it must immediately provide accommodation for you.

Depending on where you live, you may have to stay in emergency accommodation (which may be bed and breakfast or hostel type accommodation) until the council finds longer-term accommodation for you. You may have to wait a long time before you are offered settled accommodation. But remember – if you have children or are pregnant, you can only be placed in a bed and breakfast if it is an emergency and nothing else is available. Even then, the council can only house you in bed and breakfast for a maximum of six weeks in total.

Settled accommodation

As long as there are no problems in the temporary accommodation, there is no limit to the amount of time you can stay. You can normally stay until the council offers you either:

- a council tenancy, or,

- a 'final offer' of an assured tenancy with a private rented landlord or housing association, or
- a 'qualifying offer' of an assured shorthold tenancy with a private rented landlord.

The settled accommodation has to be suitable for you and the council may have to provide somewhere else if it isn't. Get independent advice before you make a decision about whether to accept or refuse any settled accommodation the council offers you.

If you move out of the temporary accommodation before you have been offered another property, or are evicted from the temporary accommodation (perhaps because you did not pay the rent or you caused a nuisance), then the council will probably no longer have a duty to help you. If you are in this situation, contact a local advice centre to check whether you are entitled to any more help.

Council tenancy

The council may offer you a council tenancy. It will probably be an introductory tenancy (a type of trial tenancy) for the first 12 months, although this can be extended if the council is worried about your behaviour. After the trial period, the tenancy will automatically become a secure tenancy. Secure tenants have very strong rights.

You may be offered a choice of more than one council home but this is not guaranteed. You may have a reason for thinking the offer is not suitable, perhaps because of your health, the size of the accommodation, the location, or a risk of violence in the area. It may be advisable to accept the offer even if you don't think it is suitable. You are allowed to ask the council to review the offer and tell it why you think the accommodation is unsuitable. If the council does not offer you another property, go to your local advice centre for advice about what to do next.

An offer is not a final offer unless it is made in writing and says that it is a final offer. The council must be satisfied that the accommodation you are offered is suitable for you and must also inform you that:

- you have the right to ask the council to review the offer if you think the accommodation isn't suitable
- if you refuse the offer, the council won't have to help you any more and you will have to move out of your temporary accommodation.

If you are not given this information when the offer is made, then it doesn't count as a final offer.

Assured tenancies

You may be offered an assured tenancy from a housing association or a private landlord. Assured

tenants have strong rights. If you accept an offer of an assured tenancy, the council will not have a responsibility to continue to provide temporary accommodation.

Qualifying offer

The council may offer to arrange a qualifying offer of an assured shorthold tenancy with a private landlord. Assured shorthold tenants have fewer rights than assured and secure tenants and can be evicted quite easily.

A qualifying offer is an assured shorthold tenancy with a private landlord that has been approved and arranged by the council. It must be available for a fixed term (such as one year) and the council has to be satisfied that the accommodation is suitable for you. The offer must be accompanied by a written statement, which explains clearly that:

- you don't have to accept the offer, but
- if you do, the council won't have to give you any more help

The council's responsibility to help you only ends if you sign a written statement saying that you have accepted the qualifying offer and that you understand that this means the council doesn't have to give you any more help. If you don't get this information when the offer is made, then it doesn't count as a qualifying offer.

I disagree with the council's decision

If the council says it doesn't have to help, read the relevant sections of this guide to check whether the reasons you have been given are legally correct. If they're not, you may be able to take action.

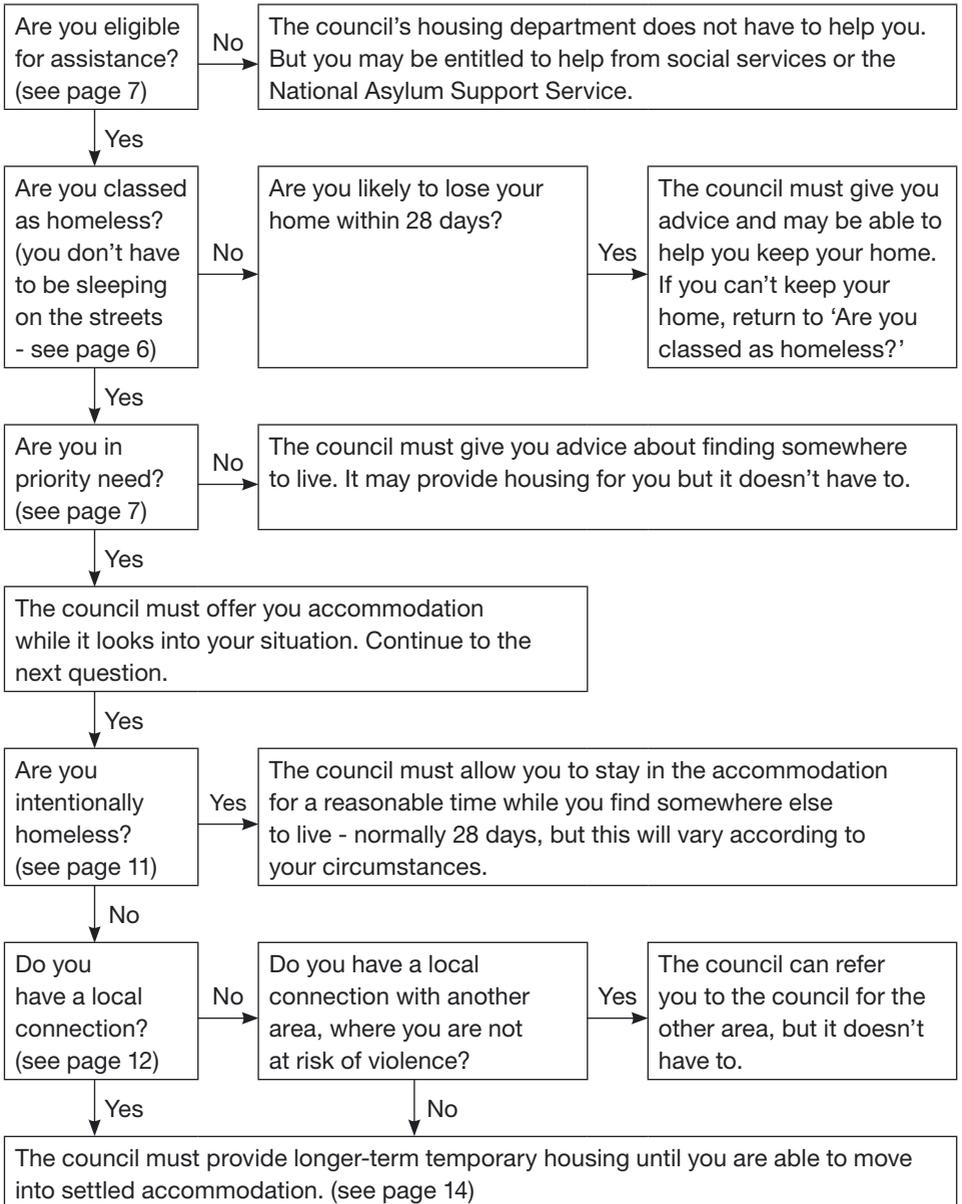
If you want to do so, you should ask a local advice centre to help you. Getting specialist help will increase your chances of getting the decision changed.

If the council has made a decision you disagree with, you can ask them to review it. You must make this request within 21 days from when you are told about the decision. You can only make a request later than 21 days if you have a good reason for not doing so sooner (a serious illness, for example).

If you disagree with the review decision, you may be able to appeal to the county court. You must do this within 21 days of when you are told of the outcome of the review. You can also appeal to the county court if the council doesn't make a decision within eight weeks. You can ask the council to provide temporary accommodation until the appeal is heard.

How the council has to help flowchart

The enquiries the council makes will affect what you are entitled to. This flowchart shows what you might be entitled to. If the council's decision at any stage is unfair, you may be able to challenge it.



Homelessness application letter

To Homeless Persons Section

Date _____

My address for writing is:

Dear Sir or Madam,

I wish to apply as homeless under Part 7 of the Housing Act 1996, as amended by the Homelessness Act 2002. I provide some basic details below but I would like an appointment to see a homelessness officer urgently.

I will be homeless/I became homeless on: _____

because: _____

The following people also live with me (or would live with me if I had a home for us all)

Yours faithfully



Organisations

To contact Shelter, call our free housing advice helpline on 0808 800 4444. Our advisers can provide minicom or interpreting services if you need them. You can also visit our website (www.shelter.org.uk/advice) for more information about your legal rights and practical solutions to common housing problems. Other organisations that may be able to help you include:

Advice UK

12th Floor, New London Bridge House, 25 London Bridge Street, London SE1 9SG, 020 7407 4070, www.adviceuk.org.uk

Citizens Advice

Myddelton House, 115–123 Pentonville Road, London N1 9LZ, 020 7833 2181, www.adviceguide.org.uk

Community Legal Service

(formerly Legal Aid Board), 0845 345 4345, www.clsdirect.org.uk

Housing Rights Service

4th Floor Middleton Buildings, 10–12 High Street, Belfast BT1 2BA, 028 9024 5640, www.housingrights.org.uk

Immigration Advisory Service

County House, 190 Great Dover Street, London SE1 4YB, 020 7967 1200, www.iasuk.org

Law Centres Federation

Duchess House, 18–19 Warren Street, London W1P 5DB, 020 7387 8570, www.lawcentres.org.uk

London Lesbian and Gay Switchboard

PO Box 7324, London N1 9QS, 020 7837 7324, www.llgs.org.uk

National Debtline

0808 808 4000 www.nationaldebtline.co.uk

National Domestic Violence Helpline 0808 2000 247

Shelter Cymru

25 Walter Road, Swansea SA1 5NN, 01792 46900, www.sheltercymru.org.uk

Shelter Scotland

Scotiabank House, 6 South Charlotte Street, Edinburgh EH2 4AW, 0131 473 7170, www.shelter.org.uk

Refugee Council

240–250 Ferndale Road, London SW9 8BB, 020 7346 6700, www.refugeecouncil.org.uk

Bad housing wrecks lives

We are the fourth richest country in the world, and yet millions of people in Britain wake up every day in housing that is run-down, overcrowded or dangerous. Many others have lost their home altogether. Bad housing robs us of security, health, and a fair chance in life.

Shelter believes everyone should have a home.

We help 100,000 people a year fight for their rights, get back on their feet, and find and keep a home. We also tackle the root causes of bad housing by campaigning for new laws, policies, and solutions.

We can only do this with your help. Please support us.

88 Old Street
London
EC1V 9HU

Telephone: 0845 458 4590
or visit www.shelter.org.uk

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