

How to

challenge
the decision
about your
homelessness
application

advicenow

Making sense of the law and your rights

About this guide

If you are about to be made homeless or if you are already homeless you are likely to be feeling stressed and anxious. If you are not getting the help you need then you are likely to be feeling frustrated or angry too. Try not to panic or give up. You might feel that you don't know where to start. The sooner you get some information on what you might be able to do, the better. You can start by reading this guide. Perhaps a support worker, friend or relative can read through it with you and help you take the next steps.

This guide is for you if you want to challenge a decision made by the council about your homelessness problem. We have written this guide to help you do this. This may feel really daunting. Try not to worry, we will guide you through the process step by step.

This guide is also for people supporting others in this situation, for example, housing support workers and advice workers as well as relatives and friends.

This guide is **not** for you if:

- You live outside England - (the law is different in Wales, Scotland and Northern Ireland).
- You are not entitled to housing assistance - see **A Survival guide to what to do if you are threatened with homelessness** for more on this.

We have also written a guide to help you work out what to do if you think you might be made homeless soon. Take a look at **A survival guide to what to do if you are threatened with homelessness**.

If you are already homeless take a look at **A survival guide to what to do if you are homeless** to understand your housing rights and where you can get help from the council or other services.

This guide explains:

- What a written decision letter from the council is and how to get one.
- When and how you can get a review of a decision made by the council about your homelessness problem.
- When and how you can appeal a decision made by the council.
- How you can collect evidence to help you get the right decision.
- How and where to get more legal advice and help.

We try to explain any legal language as we go along but there is also a jargon buster to help you at the end of the guide, called **'What does it mean'?**

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How to get a written decision letter from the council

When the council makes a decision about your homelessness application there is often a duty on the council to put this in writing. This is known as a written decision letter. Sometimes you might hear it called a notification or a section 184 letter.

The letter must be in plain language. It must tell you what you can do to challenge the decision, if you want to, and when you need to do it by. The letter must list the reasons for the council's decision clearly and fully.

If you are given a decision over the phone or in person but you are not given that same decision in a letter you need to ask for it. This is proof of the council's position on your housing problem. If you don't agree with the decision you need this written proof to see if you can challenge it. You should phone the council now and ask for your decision letter to be sent to you or an address of a trusted friend or family member. Or you could have it emailed to you or a trusted friend. Or you could go and collect it in person.



You might find that the council housing officer doesn't give you a decision letter and you might have to ask again and again for it. You might also find that if you pester enough the housing officer may change his or her decision on the thing you are asking for.



The times when the council must give you a written decision letter are:

- When the council decides if you are entitled to housing assistance (this is about your immigration status),
- When the council decides if you are threatened with homelessness, and are owed the 'Prevention duty' or not,
- When the council decides if you are homeless according to the law, and are owed the 'Relief duty' or not,
- When the council decides what reasonable steps will be in your Personalised Housing Plan,
- When the council decides to send you on to a different council for help,
- When the council decides if you are in priority need or not,
- When the council decides to end any of its duties to you.

Sometimes the decision letter covers one or more of these in one letter. For example, you might get a decision about the Prevention duty with your housing assessment and Personalised Housing plan all in one letter.

Housing assistance

The council has to help you with your housing problem when you go for help. But you are only entitled to this help if you have the legal right to stay in the UK. For more on this see the section 'Eligibility assessment' in **A survival guide to what to do if you are threatened with homelessness**.

Prevention duty

The council has to help you avoid becoming homeless. The council has to help you for 56 days (8 weeks) if the council is sure that you are entitled to housing assistance and if you are threatened with homelessness.

Relief duty

The council has to help you find somewhere to live. The council has to help you for 56 days (8 weeks) if the council is sure that you are entitled to housing assistance and you are homeless.

Local connection

You have a local connection with a place if you normally live there, work there or have family ties there. Also there are other special circumstances that can give you a local connection. For more on this see 'Stage 1' in **A survival guide to what to do if you are homeless**.

Personalised housing plan

The council must work with you to do a written plan of what the council and you will do to try and sort out your housing plan.

How to get a written decision letter from the council

When and how to get a review of a decision made by the council

When and how to get a review of a decision made by the council

When you get a decision letter from the council about any of the decisions listed on page 5 you only have 21 days (3 weeks) to ask the council to review the decision. You should try and find a legal aid solicitor who does housing law now. You can find a housing law solicitor here: [find-legal-advice.justice.gov.uk/](https://www.find-legal-advice.justice.gov.uk/).



The solicitor can see if you are entitled to free advice. If you are, the solicitor can write a letter to the council asking for the council to review the decision. The letter can say how the council's decision is wrong (if it is). The council might quickly change its decision when it gets a letter from a solicitor saying its decision is wrong.

If you can't find a solicitor, you may be able to find a housing adviser who can help with this problem at [find-legal-advice.justice.gov.uk/](https://www.find-legal-advice.justice.gov.uk/).

If you can't find a solicitor or a housing adviser, you need to ask for a review yourself. It is best to do this in writing and keep a copy, or do it by email. That way, you will have a record of your request. You cannot challenge the council's decision without first asking for a review so you must make sure you do this before the three week deadline is up.

If the council doesn't change its decision right away, a different, more senior, housing officer will look at the decision and give you a written notice of the review within a set time. How long you have to wait for the review to happen depends on what decision is being reviewed. It varies between 3 weeks and 12 weeks. It will say in the letter you get how long you have to wait.

You can also ask for a review of:

- The suitability of accommodation offered to you by the council,
- The decision by the council that you have deliberately and unreasonably refused to cooperate with the council about your Personal Housing Plan.

When and how you can appeal a decision made by the council

If you ask the council to review a decision they have made about your homelessness and the review goes against you, you have only 3 more weeks to appeal to the county court.

It is not easy to appeal to the county court without legal advice and help. To help you decide whether to appeal or not you need to try and get some legal advice as quickly as possible.



As soon as you get your decision notice or letter and decide you want to appeal you need to take the next steps:

Step 1

Find a solicitor or housing adviser who does housing law and make an appointment. You may need to travel to see a solicitor who does legal aid work - you will need to decide if this is practical or even possible. For some people it won't be possible because of the costs or distance or both.

When and how you can appeal a decision made by the council

You cannot just appeal because you don't like the decision. Instead, you need to show errors of law were made by the housing officer. This is a difficult thing to do without proper legal advice from a solicitor or housing adviser. You can find a housing law solicitor or housing adviser here: **find-legal-advice.justice.gov.uk/**

You may be able to get legal aid to appeal the review decision of the council. It takes time to find a solicitor and to apply for legal aid and prepare an appeal so you need to act quickly if you decide you want to try and appeal.



Step 2

When you have made an appointment, before the meeting, make sure you know exactly what the solicitor or housing adviser needs you to take with you to the meeting and make sure you have it ready. The solicitor will need:

- proof of ID,
- proof of address or a care of address if possible.
- information about your income and any capital you have. This might be a benefits letter or payslip and bank statements.
- all the paperwork you have from your landlord and the council, especially the review notice.



When and how you can appeal a decision made by the council

Step 3

Make sure you get to the appointment in good time with all the documents the solicitor or housing adviser needs. This is the only way you are likely to have a useful meeting. Take a friend or family member for support if you can.



Step 4

If the solicitor or housing adviser can help you with your case and advises you to appeal then you need to make sure you get to any other appointments the solicitor asks you to go to. And make sure the solicitor has your up to date mobile number and an address that you can get post from.

Example

Joanna asked for a review of her council's decision not to help her with housing.

She was refused help because the council decided she wasn't really homeless. The council decided she and her young daughter could go and live with family in Poland.

Joanna got some advice from a housing law solicitor who helped her to challenge that review decision by appealing to the county court. They collected evidence about the accommodation in Poland and her family there and evidence about her recent life in the UK. They were able to say that the accommodation in Poland wasn't 'reasonably available' to her because if she joined the family there the accommodation would be very overcrowded. Also her relationship with her old family was not strong but she had strong ties in the UK. Joanna was successful in her appeal.



Collecting evidence to help you get the right decision

What evidence you will need to get the right decision will depend on what decision is being made or what decision you want to fight.

Below are some of the different situations you might find yourself in and the types of evidence you will need.

Housing assistance

If the council tells you that you are not entitled to housing assistance take a look at the section called 'The eligibility assessment' in **A survival guide to what to do if you are threatened with homelessness**.

Prevention duty

The council can decide you can't get help because it doesn't seem that you are likely to be homeless in the next 56 days. If this happens to you, you need to show the council why you think you will be homeless soon. This might mean asking the housing officer to speak to a family member who is telling you to leave or getting a letter from that family member or it might mean giving the housing officer your section 21 eviction notice from your landlord, or asking for a copy if you have lost it.

Relief duty

The council can decide you can't get help to end your homelessness because the housing officer doesn't think you are homeless according to the law. You will need to get evidence together to show that you are. This might mean asking the housing officer to speak to the family member who has made you leave.

If you can't go back to your home because of domestic abuse it will help your case if you can tell someone independent (not just a friend or family member) about what has happened. This person might be a domestic abuse support worker, a health visitor, the police or a solicitor who does family law. The person you tell can then give the council a record of what you have said to them. The council can't say you have to have evidence of the abuse other than your word but it will help your case if you do.

If you are still in your home but it is in too poor a state of repair or has been badly damaged take photos to show the housing officer or ask the housing officer to visit. It might also help to report the disrepair to the council's Environmental Health department, or ask the housing officer how to do this – they may inspect and if they do they will write to you. The letter will be useful evidence for your case.

Priority need

If you can prove to the council that you are in priority need then the council will have a duty to actually house you. So, it is very important to get any evidence you can to try and convince the housing officer that you are in priority need.

If you are one of the people on the list who is automatically in priority need this is not so tricky. See page 10 of **A survival guide to what to do if you are homeless** for the list. For example if you are pregnant you just need a letter from your midwife or GP. If you have young children you just need their birth certificates and a child benefit entitlement letter.

Collecting evidence to help you get the right decision

If you don't fall into any of the categories but you are vulnerable for other reasons you will need to get good evidence to help you convince the housing officer you are in priority need. If you have a support worker or a social worker they may be able to help you with this.

If you are vulnerable, for example, because you have physical or mental health problems or disabilities your GP may be able to help. Or, if you can find a solicitor who does housing law or housing adviser they may be able to help you get legal aid to get medical evidence. Have a look at page 13 for more help on this.

Intentionally homeless

The council may say that you have made yourself intentionally homeless and so it no longer has to help you. If the council decides this, it means you are not entitled to housing even if you can show you are in priority need, except for temporary housing while you find yourself housing. So, it is really important to fight this decision. The council may say you are intentionally homeless if you have been evicted for rent arrears or if you are homeless after being in prison.

There is nowhere in the law where it actually says that these situations mean you have made yourself intentionally homeless. So you can fight them. For example, if you cannot afford your rent due to genuine financial difficulties the council cannot say that you have made yourself homeless intentionally. You will need evidence of your income and outgoings to show that you couldn't afford it.

To fight the council on the decision you are intentionally homeless you need to:

- Ask the housing officer to write down their decision in a decision letter.
- Ask the council to review.

Local connection

The council might say you are not entitled to any help if you are not from the local area because you can't show you have a local connection.

If you are threatened with homelessness it doesn't matter if you don't have a local connection so don't let them turn you away. You are still entitled to help for 56 days (8 weeks) to avoid becoming homeless.

If you are homeless and you are also possibly in priority need, any council you go to has to help by giving you emergency or temporary accommodation. At this point the council can also refer you to another council if it thinks you don't have a local connection to where you are. The council will probably try to turn you away if you don't have a local connection even though it shouldn't. It makes sense to apply to an area where you have a local connection, unless you have a very good reason for not wanting to – for example if you are at risk of abuse or violence there.

To show you have a local connection you need evidence. Some examples are:

- To show how long you have lived or slept rough somewhere - a tenancy agreement, a letter saying how long you have been at your GP or Dentist, or proof that your children have been attending school in the area.
- To show you work in the area - your employment contract or a letter from your employer stating where you work and how long you have worked there.

Collecting evidence to help you get the right decision

Suitability of accommodation

Be aware that the council can end its duties to you if you turn down accommodation. This means that if you turn down accommodation the council will not help you again or offer you other accommodation. So, usually it is sensible to accept any accommodation that the council offers you and then try challenge how suitable it is later. You should try and find a legal aid solicitor that does housing law or a housing adviser to get help. Make sure you don't just refuse accommodation without some legal advice first.

If you don't want to live in the accommodation offered to you by the council you need to explain that it doesn't meet your needs. This means that you need evidence to back up what you do need.

Examples of evidence about what you need could come from different places. For example:

- Health problems or disabilities - ask your GP or other health professional working with you or your children for a letter saying what you need in terms of accommodation.
- If you can't afford the rent - get bank statements to show how low your income is or information from a debt adviser to show you can't manage it.
- If it is to do with the situation or state of the accommodation, take photos to show the council what the problem is.



Collecting evidence to help you get the right decision

Getting legal advice

If you do decide to challenge the council about a decision or review notice it has made, you should try to get legal advice. You can find a solicitor who does housing law here **[find-legal-advice.justice.gov.uk/](https://www.justice.gov.uk/find-legal-advice)**

Not all solicitors offer legal aid. It is important to go to a solicitor or housing adviser who can offer you legal aid if you are entitled to it. You can find a solicitor or housing adviser who does legal aid here **[checklegalaid.service.gov.uk/find-a-legal-adviser?category=housing](https://www.checklegalaid.service.gov.uk/find-a-legal-adviser?category=housing)**

You can get an idea (but not a final answer) of whether or not you are likely to be entitled to legal aid here **www.gov.uk/check-legal-aid/**

Try not to leave it to the last minute to get help - a solicitor or housing adviser will need time to help you and try and get you legal aid. They may also have waiting lists for appointments.

If you are able to get legal advice this will help you decide what to do next. If you can't find a solicitor or housing adviser, there are other places to go to get help with housing problems. For more information about where to go for help take a look at the next section.



Getting
legal advice

More help and advice

Start by contacting **Shelter**. You can call Shelter's free housing advice helpline on: 0808 800 4444. The line is open from 8am – 8pm on weekdays and 9am – 5pm on weekends, 365 days a year. Calls are free from UK landlines and all major UK mobile operators. There's also a 'chat with us' service on their website.

Shelter also has advice centres in England where you can go to get personal, face-to-face advice from a housing specialist. To find your nearest centre see england.shelter.org.uk/get_help/local_services

To find a **lawyer** that specialises in housing law and to find out if you are eligible for legal aid look at these websites:

hpa.org.uk/cms/find-a-housing-lawyer/

find-legal-advice.justice.gov.uk/

checklegalaid.service.gov.uk/find-a-legal-adviser?category=housing/

Civil Legal Advice is a service that provides some free legal advice over the phone, funded by the government.

To see if you qualify go to gov.uk/civil-legal-advice/

You need to be on a low income with either a small amount or no savings to be entitled to this help.

To find a housing law adviser you can get help from **AdviceUK** which is a network of advice centres. You can search for your nearest advice centre here: adviceuk.org.uk/looking-for-advice/

Citizens Advice is the national body for Citizens Advice Bureaux (CAB). Scroll down their homepage to search for a CAB near you: citizensadvice.org.uk/.

You can also get help from **law centres** who employ solicitors and other workers who specialise in helping people with housing, employment, immigration, education, community care, and benefit problems. You can search for your nearest Law Centre here: lawcentres.org.uk/i-am-looking-for-advice

LawWorks is a charity that connects people in need of legal advice and assistance with lawyers willing to meet those needs for free. It supports 170 legal advice clinics across England and Wales. Most of these law clinics take place in the evening and provide free initial advice to people about social welfare issues, employment law, housing matters and consumer disputes. You can find a clinic here: lawworks.org.uk/legal-advice-individuals/find-legal-advice-clinic-near-you

Community organisations – some local community organisations offer housing advice, and sometimes in languages other than English. If there's a community organisation near where you live, it's worth asking them if they can help. If you don't know whether there is one, ask your local council if they know of any.

You can also use Advicenow's Help Directory to find help: advicenow.org.uk/guides/help-directory

More help
and advice

What does it mean?

Notification – this is a letter telling you what the council has decided about your particular housing problem.

Review – a review is when you ask the council to look again at the decision the housing officer has made about your homeless application.

Review notice – this is a letter telling you the outcome of the review you have asked for of the council's decision about your homelessness application.

Appeal – an appeal is an application to the county court for the court to decide if the decision made by the council about your homelessness application is wrong according to the law.

What does
it mean?

Notes

The information in this guide applies to England and Wales only. The law may be different if you live in Scotland or Northern Ireland.

The law is complicated. We have simplified things in this guide. Please don't rely on this guide as a complete statement of the law. We recommend you try and get advice from the sources we have suggested.

The cases we refer to are not always real but show a typical situation. We have included them to help you think about how to deal with your own situation.

advicenow.org.uk

If you would like this guide in another format please email guides@lawforlife.org.uk

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