

Factsheet 89w ● January 2024

## Dealing with homelessness in Wales



**Age Cymru Advice**

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# 1 Information about this factsheet

This factsheet explains what help is available if you are homeless – or at risk of homelessness – for example, due to an occupation contract in a rented property ending, or a relationship breakdown. The factsheet looks at:

- common causes of homelessness and what to do in each case;
- the criteria you have to meet to get help from the local authority (council);  
*and*
- what help the authority should provide, depending on your circumstances.

Information on how to join the waiting list for council and housing association housing in your area can be found in Age Cymru's Factsheet 8w *Community landlord housing in Wales – local authority or housing association homes*.

Information about private rented housing is in Age Cymru's Factsheet 63w *Finding private rented accommodation in Wales*.

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**Note:** The information given in this factsheet is applicable in Wales. Different rules apply in England, Northern Ireland and Scotland. Contact Age UK, Age NI and Age Scotland respectively for further information.

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## 2 Welsh Government legislation which governs homelessness assistance from local authorities

### 2.1 Part 2 (Homelessness) of the Housing (Wales) Act 2014

This Act came into force in April 2015 and contains the procedures for local authorities in Wales with regard to how they should assist people who are homeless, or threatened with becoming homeless.

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**Note:** The *Housing (Wales) Act 2014* “amends and consolidates all previous homelessness legislation”<sup>1</sup>.

A copy of the Act can be accessed at:

**[www.legislation.gov.uk/anaw/2014/7/contents/enacted](http://www.legislation.gov.uk/anaw/2014/7/contents/enacted)**

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### **Welsh Government aims behind the legislation**

The Welsh Government’s policy aims behind the homelessness elements of the *Housing (Wales) Act 2014* are a focus on early intervention to prevent crisis situations occurring before meaningful assistance can be provided. There is now less emphasis on ‘priority need’ and ‘intentional homelessness’ at the point when help is first requested, though these existing concepts from earlier legislation may well still be important when considering whether further duties are owed to homeless applicants during particular stages of the process – see section 6 below.

## **2.2 Official supplementary guidance to Part 2 of the Housing (Wales) Act – Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness**

The Code of Guidance is produced by the Welsh Government as a guide for local authority staff when carrying out “functions [under] Part 2 (Homelessness) of the Housing (Wales) Act 2014”<sup>2</sup>.

In other words, it reflects the Welsh Government’s “understanding of the law” and how it expects legislation to be interpreted and implemented by local authorities<sup>3</sup>.

As such, it is also an important document for those working in the field of homelessness and has been used extensively in the production of this factsheet (references will be provided in the text where this is the case).

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<sup>1</sup> Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness, Welsh Government, March 2016

<sup>2</sup> Ibid

<sup>3</sup> Ibid

Decisions taken in homelessness cases can potentially be challenged if a local authority is not able to show that they have taken into account guidance within the Code<sup>4</sup>.

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**Note:** The latest version of the Code was published in March 2016 and a copy can be accessed on the Welsh Government's website at:

**[www.gov.wales/allocation-accommodation-and-homelessness-guidance-local-authorities](http://www.gov.wales/allocation-accommodation-and-homelessness-guidance-local-authorities)**

It should be noted that the Code includes some terminology which is now out of date, as a result of the full implementation of the *Renting Homes (Wales) Act 2016* in December 2022 (see section 2.4 below). It's unclear at the time of writing – January 2024 – whether the Welsh Government intends to update the *Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness* to take account of this.

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## 2.3 Part 1 of the Housing (Wales) Act 2014

Part 1 of the *Housing (Wales) Act 2014* introduced a compulsory registration and licensing scheme for private sector landlords, letting agents and management agents in Wales. Certain standards must be met as part of this. The Welsh Government's aim is to prevent rogue landlords from letting properties. If a landlord manages a property themselves, they must demonstrate that they are 'fit and proper' to hold a licence, as well as completing approved training. Alternatively, a landlord can appoint a managing agent, who will also need to be licensed under the scheme.

Rent Smart Wales is the licensing authority that administers the scheme. Further information can be found at:

[www.rentsmart.gov.wales](http://www.rentsmart.gov.wales)

Rent Smart Wales and individual local authorities can initiate any necessary enforcement action against non-compliance.

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<sup>4</sup> In the Code itself it is advised that "where the word 'must' is used, this refers to a statutory duty which must be implemented"; "where the word 'should' is used, this refers to a level of practice which is not mandatory but would normally be the accepted professional standard"; and "where the word 'may' is used, this refers to good practice which Local Authorities and others are asked to consider".

## 2.4 The Renting Homes (Wales) Act 2016

The *Renting Homes (Wales) Act 2016* was implemented on **1 December 2022** and means that the way all landlords (in all housing sectors) rent their properties has changed.

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**Note:** The information in this section is a brief summary of the main points of note in the legislation. Where relevant, further information on some of these elements might be included in the text below, or can be found within our other housing factsheets.

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### Changes in terminology

Under the Act:

- *Tenants* (and licencees) are now known as ‘**contract-holders**’.
- *Tenancy agreements* are now known as ‘**occupation contracts**’.
- *Local authority (council)* and *housing association* landlords are now known as ‘**community landlords**’ (private registered providers of social housing will also be classed as a community landlord). **Private rented sector landlords will continue to be referred to as ‘private landlords’**, so there is no change in this regard.

### Types of occupation contract

The new act seeks to simplify housing law by specifying two types of occupation contract:

- **Standard contract** – generally for use in the private rented sector.
- **Secure contract** – generally for use in the community landlord rented sector.

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**Note:** There will, however, also be ‘**converted**’ versions of the contracts above (in cases where people already had a tenancy in place prior to the act coming into force on 1 December 2022).

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## Converted contracts

Generally speaking, converted contracts will provide new rights, as a result of the new legislation, though many terms of the original agreement will continue to apply. Shelter Cymru advise that:

“The terms of the tenancy agreement that you had before 1 December 2022 are still binding on you and your landlord. The only exception to this is if the terms of the agreement you made before 1 December 2022 are incompatible with the fundamental terms of the new type of occupation contract you have”<sup>5</sup>.

Under the new legislation, landlords must provide written contracts to contract-holders. In the case of converted contracts, landlords were given until 31 May 2023 to provide this. The contract should incorporate the terms of your original agreement made before 1 December 2022. You do not need to sign this agreement, but make sure to check that the agreement is not actually a whole new contract and doesn't take away any significant rights that you had before. Seek specialist advice, such as from Shelter Cymru, if you're unsure.

## Fundamental terms in occupation contracts

Fundamental terms in your occupation contract provide you with important rights that a landlord **must** include in the contract.

## Significant changes under the legislation

These include:

- as mentioned above, contract-holders will receive a written contract setting out their rights and responsibilities;
- there is an increase in the 'no fault' eviction notice period from two to **six** months;
- new measures to protect against **retaliatory** eviction (i.e. where a landlord serves notice on a contract-holder because they ask for repairs and/or complain about poor conditions);

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<sup>5</sup> 'Converted contracts', Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/renting/converted-contracts> (last accessed 8 January 2024).



- improved succession rights – i.e. these rights set out who is able to continue to live in a property after the contract-holder dies;
- increased flexibility in cases where there are joint contract-holders, making it easier to add or remove others to an occupation contract; *and*
- new rules whereby a landlord has to ensure that their property is **fit for human habitation**.

### Further information on the Renting Homes (Wales) Act 2016

The Welsh Government has a section on their website on the legislation, including specific pages aimed at contract-holders and landlords, plus a link to the actual Act itself:

[www.gov.wales/housing-law-changing-renting-homes](http://www.gov.wales/housing-law-changing-renting-homes)

## 2.5 The Renting Homes (Fees etc.) (Wales) Act

As a result of this act, since 1 September 2019 it has become an offence for landlords or letting agents to charge a contract-holder any payment that is not specified as a 'permitted payment' by the legislation. Charges that are not permitted include accompanied viewings, receiving an inventory, signing a contract, or renewing an occupation contract. In addition to the rent, other charges that will still be permitted include security deposits, holding deposits, or a payment in default (when a contract-holder breaches a contract).

## 3 Homelessness issues – an introduction

**If you are homeless or threatened with homelessness, seek advice immediately. Your local authority housing department may have a duty to assist you, as outlined in the sections that follow in this factsheet. It may be possible to prevent homelessness, for example by challenging eviction or by exploring other housing options such as joining the waiting list for council and housing association housing.**

The charity, **Shelter Cymru**, also has a free housing helpline – see section 8 below for contact details (this section also lists some other advice agencies that may be able to assist).

### 3.1 The meaning of homelessness

**Being homeless will obviously include the most visible type – rough sleeping (also known as ‘street homelessness’).**

*However, by law, someone can also be classed as homeless if:*

- they have no available accommodation (but, perhaps, are staying temporarily with a friend/s (‘sofa surfing’), or have a place in emergency temporary accommodation, so are not sleeping on the streets);
- they have accommodation *but* it is **not** reasonable for them to continue to live there (for example, due to domestic abuse; the property is unfit for human habitation, as per relevant environmental health legislation; or it is no longer suitable for you because of a disability or illness)<sup>6</sup>;
- there is accommodation, but the person is not able to secure entry to it (for example, they have been illegally evicted); *or*
- the person’s accommodation is a ‘moveable structure’, such as a mobile home or houseboat, but they don’t have a location where they are permitted to place and reside in it.

**There is further information relevant to these bullet points in section 4 below.**

In relation to some of the points above, it may be that at the present moment someone isn’t literally homeless, but they are *threatened* with becoming so if the situation isn’t resolved – for this reason, under housing legislation, people who are threatened with homelessness can also be eligible for assistance from their local authority (see section 3.2 below).

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#### **Note: ‘Priority need’ for accommodation**

Some people who are homeless, or threatened with homelessness, can be considered as particularly vulnerable and thus have priority need in terms of a local authority’s duties to secure accommodation for them. This topic is outlined in section 6.5 below.

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<sup>6</sup> If you have accommodation outside of the UK – for example because you have recently returned from living abroad – but have been unable to sell it, you must show it was not reasonable for you to continue living in that property or country. Reasons could include needing medical treatment that was not available there or needing to move back home to receive support from family or friends. Seek advice if you are in this position.

## 3.2 Threatened with homelessness within 56 days

An important element of homelessness legislation is the stipulation that someone will be ‘threatened with homelessness’ if any of the bullet points in the previous section are likely to occur within the next **56 days**.

If someone is threatened with homelessness and approaches their local authority for assistance, the authority will have a duty to look into the case, regardless of whether the person is in ‘priority need’ or not. *However*, individual circumstances will determine the actual **level** of help that you will be eligible for – as an example, some people may only require information and advice in order to resolve the situation and find new accommodation; whereas in other cases the authority will have a duty to secure accommodation.

Section 6.1 below has further information on the low threshold for a local authority to make an initial assessment of someone’s case and section 6.5 details what is meant by priority need in the context of homelessness legislation.

## 3.3 Eligibility for help from the local authority

In the context of homelessness legislation ‘eligible for help’ largely relates to **immigration status** and ‘**habitual residence**’. Eligibility in this regard means eligible to approach the local authority for help and to have your case looked into – i.e. it doesn’t mean that you will necessarily subsequently qualify for any further assistance from the authority: this will depend on your specific circumstances, as per the information in sections 5 and 6 below.

The rules are complicated and vary depending on whether you are a British Citizen; a European Economic Area (EEA) national (European Union countries and Iceland, Liechtenstein, Norway and Switzerland); or a non-EEA national.

**You will be automatically eligible if you are a British Citizen, *unless* you recently returned from living abroad and fail to satisfy the requirements of the ‘Habitual Residence Test’ (HRT).**

The HRT test decides if you normally live in the UK, the Channel Islands or the Isle of Man. There is no legal definition of what habitual residence actually is, nor how long you need to have been in the UK to establish habitual residence, though in practice it would only be necessary for a local authority to investigate habitual residence “if the applicant has arrived or returned to live in the UK during the two year period prior to making the application”<sup>7</sup>.

Additionally, “if the applicant is returning to the UK after a period spent abroad, and it can be established that the applicant was previously habitually resident in the UK and is returning to resume his or her former period of habitual residence, he or she will be immediately habitually resident”<sup>8</sup>.

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**Note:** Further information can be found in *Annex 6 of the Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness*, plus Age UK’s Factsheet 25 *Returning from abroad*.

Shelter Cymru – see section 8 for contact details – should also be able to offer further advice.

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## 4 Common causes of homelessness and some actions that could be taken

Homelessness can occur for a wide variety of reasons; however, a number of common causes are discussed in section 4.1 to 4.10 below. Depending on circumstances, some actions could be taken:

- on their own; *or*
- before or during the process of contacting your local authority’s housing department to make a homelessness application.

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<sup>7</sup> Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness, Welsh Government, March 2016

<sup>8</sup> *Ibid*

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**Note:** You can contact **Shelter Cymru**, or a similar specialist housing adviser, to discuss the best way to proceed – see section 8 below for their contact details.

**If you wish, specifically, to find out about the procedures that the local authority should follow once they are approached for help with homelessness, you could move on to sections 5 and 6 below which advise about this process.**

It doesn't matter what the cause of the homelessness is – **the local authority can be contacted for assistance in all cases.**

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Some of the causes covered below will overlap with each other – for example, housing that is unsuitable for someone to occupy could be linked to one of the other reasons for potential homelessness, such as domestic abuse or other harassment.

#### **4.1 The ending of an occupation contract if you rent your home**

In most cases, it is illegal for a landlord to evict a contract-holder without a court order. Depending on the type of occupation contract you have and the reason why the landlord is seeking to end it, the court may have discretion over whether or not it grants an order. This means you can argue it is not reasonable for the landlord to evict you.

Some people – such as those renting from their local council – are likely to have stronger protection from eviction and can only be evicted on limited grounds. However, others will have much more limited 'security of tenure'.

**Further information relating to different occupation contract types and the procedures the landlord must use if they wish to evict someone can be found in Age Cymru's Factsheet 68w *Renting your home in Wales – rights if you are threatened with eviction.***

In all cases, seek advice as soon as possible. You may be able to delay or even prevent the eviction. Legal aid is available for challenging evictions, so you may be able to get free legal advice and representation if you are on a low income and your case is strong enough – contact Shelter Cymru for further information (see section 8 below).

It is illegal for your landlord to harass you or withdraw services from you with the intention of forcing you to leave your home. Acts of harassment include threats or physical violence, disconnecting the energy supply, or refusing to carry out vital repairs. If you are being harassed or threatened with illegal eviction, contact your local authority, an advice agency or the police.

## 4.2 No right to succeed an occupation contract

If a contract-holder dies, it is sometimes possible for the occupation contract to be taken over ('succeeded to') by their spouse, civil partner, live-in partner or a member of their family.

Your right to inherit a family member's occupation contract after their death depends on various factors, including:

- the type of occupation contract and landlord;
- when the contract was granted;
- your relationship to the person who has died, plus how long you lived together.

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**Note:** The rules on succession are complex, so you may wish to contact Shelter Cymru for further advice and information.

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## 4.3 Relationship breakdown

**The law on the housing rights of separating couples is extremely complicated. It is important to seek advice as early in the process as possible.**

If you and your partner cannot agree on your housing arrangements, then – in the short term – there are a range of 'occupation orders' that a court can make allowing or restricting access to the home.

**You may have rights you are not aware of and may need to act fast to enforce them. As with many housing issues, a specialist organisation like Shelter Cymru is a good place to start** (see section 8 below for contact details).

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## Note: Mediation

It is best to try and resolve issues informally with your partner, as court action is time consuming and costly. If appropriate, you can try mediation.

This is where an independent mediator helps you to reach agreement without taking sides. Legal aid is available for family mediation. The Family Mediation Council can help you find a local service – see section 8 below. It is a good idea to seek advice about your rights before trying mediation, so you have a clearer sense of what a fair settlement might look like.

**It is important you and your partner continue to ensure that rent and mortgage payments are made while a settlement is worked out. A local authority can say you made yourself ‘intentionally homeless’ if you lose your home because of preventable arrears – see section 6.9 below for more information on this issue.**

Mediation may not be appropriate in all situations – for example, in situations where someone may be at risk of violence from their partner. If so, seek specialist housing advice, plus you may also wish to read section 4.5 below.

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## Housing rights of separating couples

The housing rights of separating couples are based on a mix of housing and family law and it is important to seek advice as every case is different:

- If a property or occupation contract is in **your sole name or jointly** owned or rented with your partner, you have rights under housing law. You cannot be excluded by your partner except by court order<sup>9</sup>.
- If the property or occupation contract is in your **partner’s sole name**, you have no rights under housing law. **However:**

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<sup>9</sup> An order excluding someone from their home is one of the occupation orders the court can make. Such an order is usually made on a short-term basis. A court is unlikely to make an order unless one of the following applies: the applicant is the person’s spouse or civil partner; the applicant can prove they have a material stake in the property (usually because they have made financial commitments); and there are exceptional circumstances, such as domestic abuse (also see section 4.5 below).

- if you are **married or in a civil partnership**, you have ‘*home rights*’ under family law. This means you can live in the property as if you were the owner or contract-holder. With home rights, you can pay the mortgage or rent and cannot be excluded from the property except by court order. You can ask the court to make an occupation order giving you access to the property or requiring your partner to leave. Home rights do not guarantee long-term rights to a property. They do not necessarily prevent the owner from selling the property, or the contract-holder giving notice to the landlord. To do this, you would have to take further steps, such as registering your home rights as a charge on your property or seeking a court injunction to prevent your partner from giving notice.
- If you are **not** married or in a civil partnership, you do not have home rights and can be excluded by the owner or contract-holder after reasonable notice has been given. What is reasonable depends on the circumstances of the case. Cohabiting partners can ask a court to make an occupation order, but the court’s powers are limited if the person cannot prove they have a material stake in the property.

As suggested above, contact Shelter Cymru for specialist advice in this area (see section 8).

#### 4.4 **Asked to leave by friends or family**

If you live with friends or family, you may be an ‘excluded occupier’ and thus not have very strong rights against eviction<sup>10</sup>. You can generally be excluded from the home once reasonable notice has been given. If you made an agreement with your friend or relative, they must give you the notice specified in your agreement, or reasonable notice if nothing was specified.

If you have been asked to leave and cannot find alternative accommodation, you can approach the local authority for help – see section 5 below.

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<sup>10</sup> You are likely to be an excluded occupier if your landlord lives at the property and you share any of the accommodation (i.e. the kitchen, bathroom or living room); you live in the same building as your landlord and share accommodation with a member of your landlord’s family; or you do not pay any rent for your accommodation.



Local authorities should be sensitive to situations where friends or family can no longer continue to accommodate a person with support needs, but are reluctant to formally ask them to leave before alternative accommodation has been secured.

In some cases, the local authority may ask your family if you can stay while they assist you in pursuing other housing options. This can include joining their waiting list for housing in the community landlord sector and bidding for suitable properties. For more information, see Age Cymru's Factsheet 8w *Community landlord housing in Wales – local authority or housing association homes*.

The local authority may suggest you try mediation to resolve a family dispute. However, they must be sensitive to any possibility that you may be at risk of violence or abuse in your friend or relative's home.

#### 4.5 **Fleeing domestic violence (or other abuse or harassment)**

**Domestic violence and abuse does not just mean physical violence. In a family and homelessness context, it has been interpreted to include any incidents of controlling, coercive, threatening or intimidating behaviour by a person towards an intimate partner (or someone who used to be an intimate partner), regardless of their gender or sexuality.**

**It can also occur between other people living in the same household, such as between adults and children.**

Even if not directly targeted, other family members, such as children, may also be seriously affected by the domestic abuse taking place in the household. Therefore, local authorities should take into account all relevant factors such as this in each case.

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**Note:** The *Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness* makes it clear that violence includes *threats* of violence which are likely to be carried out. Also, “the likelihood of a threat of abuse being carried out should not be based on whether there has been actual abuse in the past”.

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If you are experiencing domestic violence, you have a range of housing options. It may be possible for you to stay in your home with certain safety measures in place. Alternatively, you may prefer to leave the home, or this may be the safest option for you.

For information and advice, you could also get in touch with the **Live Fear Free Helpline** – this is a free 24-hour helpline, managed by Welsh Women’s Aid, providing advice in regard to dealing with violence against women, domestic abuse and sexual violence. They can help anyone who is experiencing, or has experienced, abuse or sexual violence. They can also offer advice if you are concerned about another person, such as a friend, family member or colleague; or a practitioner seeking professional advice. **Refuge** or **Shelter Cymru** may also be able to offer specialist housing advice if you are in this situation (see section 8 for contact details for all these organisations).

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**Important:** In an **emergency**, if someone’s safety is threatened or there’s a risk of assault or injury, call the police on **999**.

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- **Options if someone who has experienced domestic violence wants to stay in the property.**

In addition to occupation orders (mentioned in section 4.3 above), there are other legal remedies that can be accessed. These include non-molestation orders, domestic violence protection orders and restraining orders. However, they do not guarantee protection and could, in some circumstances, make the situation worse. Even if an order is made, you may need to take further steps to protect or establish long-term rights to a property.

You could contact the Live Fear Free Helpline to discuss whether an order would be appropriate in your case. Ask them about other steps you can take to make your home safer, for example changing locks, putting locks on the windows or installing security equipment.

- **Options if the person wishes, or needs, to leave the property.**

The Live Fear Free Helpline could provide advice on preparations to leave your home safely. They may be able to find you a place in a refuge – a safe house for domestic violence survivors.

One option is to make a **homelessness application** to a local authority.

As touched upon in section 3.1 above, you can be treated as being homeless if it is probable that returning to your property would lead to domestic violence against you, someone living with you, or someone who could be reasonably expected to live with you. Section 6 below has general information on the process if you apply to the local authority with a homelessness application (section 6.5, specifically, has information on 'priority need' – someone experiencing domestic violence is likely to be classed as in priority need by the authority).

### Other types of abuse or harassment

This will constitute abuse perpetrated by a person or people who are not directly 'associated' with the victim (i.e. they won't be related or live in the same household). For example, it may be that the abuse or harassment is carried out by a neighbour, or a network of people living in the neighbourhood.

In some cases of this nature the events may be "hate incidents [or] hate crime" and local authorities should "liaise with local Race Equality Councils and the Welsh Government to ensure that they have appropriate arrangements for responding [to these crimes]"<sup>11</sup>.

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**Note:** The Welsh Government has stated that various "forms of abuse [can] be motivated by the personal characteristics of the victim. This may make it a hate crime. These involve a criminal offence perceived by the victim **or any other person**, to be motivated by hostility or prejudice based on a person's actual or **perceived** disability, race, religion...sexual orientation [or] transgender [status]"<sup>12</sup> (emphasis added).

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Age UK's Factsheet 9w *Housing in Wales – anti-social behaviour and other neighbourhood issues* also has some further information.

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<sup>11</sup> Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness, Welsh Government, March 2016

<sup>12</sup> Social Services and Well-being (Wales) Act 2014: Working Together to Safeguard People: Volume 1 – Introduction and Overview, Welsh Government, 2016

## 4.6 Cannot secure entry to your home

As touched upon above in section 3, this could occur where a person has been illegally evicted and, for example, the locks have been changed. It could also happen if the property was being squatted.

The *Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness* advises that “legal remedies may be available to the [person] to regain possession of their accommodation, **but Authorities must treat the applicant as homeless until re-entry is secured**” (emphasis added).

## 4.7 If you are having problems making mortgage payments – mortgage arrears / repossession

### Repossession

Mortgage repossession is subject to a pre-action protocol setting out steps the lender and borrower should take to avoid court action. It states court action should be a last resort and happen only if all other reasonable attempts to resolve the situation have failed.

If you fall into arrears, **the lender must advise you to make contact with your local authority or a debt advice agency such as StepChange or National Debtline** (see section 8 for their contact details).

**You should do this as soon as possible.**

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**Note:** The Welsh Government has schemes that might also be able to help – see below.

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Your lender should treat you fairly, act reasonably and discuss the reasons for the arrears with you, including giving consideration as to whether you would be able to pay them off in a reasonable timeframe. They should consider a range of other possibilities, such as changing the type of mortgage, or extending the mortgage term.

If you fail to comply with a payment agreement, the lender must not start a possession claim without giving you the opportunity to remedy the breach within fifteen working days. Also, the lender must not start a possession claim if you can demonstrate you are in financial or other difficulty and need time to seek debt advice or have an appointment booked with a debt adviser. Age UK's Factsheet 75 *Dealing with debt* may also be useful.

If the equity in your property is low enough, you may be able to obtain free legal advice and representation through legal aid. If you are over 60 and on certain benefits or on a low income, the legal aid means test is more generous, meaning you can have more equity in your home and still qualify.

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**Note:** Under the pre-action protocol, you have certain obligations as well as rights. You may be required to explain to the court how you have complied with these. For more information, see:

[www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot\\_mha](http://www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot_mha)

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### The Welsh Government's Help to Stay Wales Scheme

This scheme is designed to help households who are struggling to afford their mortgage payments, including situations where they have already missed payments (and have thus started to accumulate arrears), or are likely to miss payments in the near future due to a change of circumstances (e.g. an increase in the interest rate on their repayments).

If you qualify, the scheme can provide a “funding support package comprising of a shared equity loan...to reduce existing monthly mortgage payments to an affordable level”<sup>13</sup>. This allows a period of time for you to try and resolve underlying financial issues and reduce the risk of repossession and homelessness.

Further information on the scheme, including some important information on deciding whether it will be right for you, can be found on the Welsh Government's website at:

[www.gov.wales/help-stay-wales-guidance-applicants](http://www.gov.wales/help-stay-wales-guidance-applicants)

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<sup>13</sup> 'Help to Stay - Wales: guidance for applicants', Welsh Government website: [www.gov.wales/help-stay-wales-guidance-applicants-html](http://www.gov.wales/help-stay-wales-guidance-applicants-html) (last accessed 12 January 2024).

## Mortgage rescue schemes

Some local authorities operate these schemes, which have different criteria to the 'Help to Stay' scheme mentioned above. Further information can be found on the Shelter Cymru website at:

[www.sheltercymru.org.uk/housing-advice/mortgages/mortgage-rescue-schemes](http://www.sheltercymru.org.uk/housing-advice/mortgages/mortgage-rescue-schemes)

## 4.8 Risk of eviction where you rent your home, but the landlord is behind on their mortgage payments

Sometimes people may be at risk of homelessness due to the landlord of the property in which they're living having fallen behind on mortgage payments on the property.

Age Cymru's Factsheet 68w *Renting your home in Wales – rights if you are threatened with eviction* has information which may be useful to you in this scenario, or you could contact Shelter Cymru for advice – see section 8 for their contact details.

## 4.9 Unsuitable or unaffordable housing

Someone can become homeless if it is not reasonable to continue living in their current accommodation because:

- the property is in a poor condition;
- it is overcrowded;
- the physical characteristics of the property make it unsuitable (for example, for someone who has a disability);
- the type of accommodation makes it unsuitable for long term occupation;
- the cost of the property is unaffordable.

## Properties in poor condition

In the case of accommodation which, due to its condition, is not fit for someone to occupy, their case could be particularly strengthened if the local authority's environmental health department have inspected the property and agree to its unsuitability (as an example, an assessment by environmental health might provide corroborating evidence of how the property's condition is exasperating an existing health problem of someone living in the property).

The *Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness* advises that “authorities will need to consider after inspection whether the condition of the property is such as to render it unsuitable for human habitation or so bad in comparison with other accommodation in the area that it would not be reasonable to expect someone to continue to live there”.

## Overcrowding

The Code of Guidance states that “statutory overcrowding, by itself, is not sufficient to determine whether it is unreasonable for the applicant to continue to live in accommodation, [but] it can be a key factor which suggests unreasonableness. Overcrowding will need to be considered in relation to general housing conditions in the area”.

## Physical characteristics of the property

It would not be reasonable for someone to continue to occupy accommodation if its physical characteristics make it unsuitable – for example, if someone is a wheelchair user and access is limited.

However, in this sort of scenario, the local authority may be able to work with the person concerned to improve or adapt the property to allow them to continue living there – see Age Cymru's Factsheet 67w *Home improvements and repairs for older people in Wales* and 42w *Obtaining disability equipment and home adaptations in Wales* for further information.

## The type of accommodation is not designed for long term occupation

The Code of Guidance explains that “some types of accommodation are intended to provide temporary accommodation in a crisis, for example, women’s refuges...hostels [or] night shelters, and it should not be regarded as reasonable for someone to continue to occupy such accommodation in the longer term”.

## Accommodation which is unaffordable

The Code of Guidance recognises that someone can be at risk of homelessness if the accommodation they are in becomes unaffordable to them.

When looking into individual cases, local authorities should take account of “the financial resources available to the person...maintenance payments (in respect of ex-family members); and the applicant’s other reasonable living expenses”.

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**Note:** Authorities are also reminded that “the numerous changes in Housing Benefit which have been made since April 2011 have led to an increased number of households struggling to meet their housing costs. Consideration should therefore be given to [any] changes in their level of Local Housing Allowance [or] Housing Benefit [and] households should not be penalised for the loss of accommodation where it was due to an unavoidable change in their welfare benefits or income related to employment that led to the accommodation becoming unaffordable”.

“In these circumstances they should be regarded as homeless or threatened with homelessness, and they should be assisted at the earliest point to maintain the accommodation if appropriate through available resources or provided with assistance to look for alternative accommodation”<sup>14</sup>.

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<sup>14</sup> Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness, Welsh Government, March 2016



If you are struggling to meet your housing costs, you may be able to maximise your income, if you are not claiming all your entitlements – see Age Cymru’s information guide, *More money in your pocket*, for further information. You may also wish to contact your local Age Cymru or our Age Cymru Advice line for a benefit check (see section 8 for contact details).

## 4.10 Leaving prison

If you approach the local authority for help with homelessness after leaving prison, they should consider whether being in prison means you have a ‘priority need’ for accommodation.

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**Note:** Prison leavers who were homeless upon leaving custody used to be automatically in priority need. However, since the implementation of *Part 2 (Homelessness)* of the *Housing (Wales) Act 2014* prison leavers who are homeless only qualify as being in priority need if they are considered to be vulnerable as a result of time spent in custody. See section 6.5 below for further information on priority need.

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Shelter Cymru should also be able to advise further on this topic.

## 5 Making a homelessness application to the local authority housing department

If someone is homeless – or threatened with homelessness – an application can be submitted to the local authority. A homelessness application can be made:

- in person, by visiting an appropriate office of your local authority<sup>15</sup>;
- by telephone;
- by making an application in writing; *or*

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<sup>15</sup> The Code of Guidance actually states that “applications can be made by anyone 16 or over, to any department of the Local Authority”, though, if possible, it would be best to visit one of their offices that specifically deals with housing – this information should be available on their website, or Shelter Cymru’s housing advice line should be able to help find the details. It may be advisable to visit the local authority’s office when it first opens, as there may be a wait.

- by another person acting on the homeless person’s behalf (“for example, by a social worker or solicitor acting in a professional capacity, or by a relative or friend. Ideally applications should be made by the applicant, however this is not always possible due to a variety of reasons such as institutionalisation, disability or medical issues”<sup>16</sup>).

Advice and assistance should be available at all times during normal office hours, plus authorities should also have arrangements in place for 24-hour emergency cover – for example telephone access to an appropriate duty officer.

Shelter Cymru’s housing advice line (see section 8 below for contact details) may be able to advise on the out of hours provision in your particular area.

## 5.1 Information you need when making an application

When you first contact the local authority, you should explain:

- why you are homeless or threatened with homelessness;
- if you need a place to stay immediately; *and*
- the reasons you believe you are eligible for assistance.

Under the *Housing (Wales) Act 2014* **the threshold for qualifying for the local authority to make an initial assessment of your situation is very low** (though it should be emphasised that this doesn’t mean that someone will necessarily qualify for help beyond this – “the purpose of the assessment is primarily to satisfy [the authority that] the threat of homelessness exists” and, depending on the specifics of the case, it will be determined at a later date whether any further duties are owed to the applicant<sup>17</sup>).

Further information on the procedures that local authorities should follow in both the initial assessment and subsequent stages of carrying out their homelessness duties can be found in section 6 below.

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<sup>16</sup> Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness, Welsh Government, March 2016

<sup>17</sup> Ibid

When they begin to deal with your application, the authority will probably want to conduct an initial interview with you. Your case may be able to progress more quickly and have a greater chance of success if you are able to bring the following documents to the interview:

- Proof of identity (and, if relevant, immigration status) for all household members – e.g. birth certificates or passports.
- Evidence of where you live or were living – e.g. your occupation contract or licence agreement (if you rent your home); utility or Council Tax bills in your name and/or a letter from an official source addressed to you or saying where you have been living.
- Evidence of why you are homeless or threatened with homelessness – e.g. a notice or letter from your landlord or mortgage lender, eviction documents from court, or a letter from friends or family saying they want you to leave.
- Proof of income – e.g. benefit books or wage slips.
- Letters from professionals involved in your case – e.g. from a doctor or social worker setting out your care and support needs or from a domestic violence advocate.
- If relevant, crime reference numbers and copies of police reports.

This list is not exhaustive, so take any other information or documentation you think may help your case.

## 5.2 Obtaining additional support to help you through the process

You may need additional support to make a homelessness application or during the application process.

As mentioned above, the application can be made by a person acting on your behalf, such as a social worker, solicitor, an advocacy service, charity, friend or relative. You could contact Age Cymru Advice or Shelter Cymru for information on whether there are any advocacy services in your area that could offer you support.

You should be given a clear and simple explanation of the local authority's procedures for handling applications and making decisions. Ideally, this should be provided in written form, such as a leaflet, as well as orally.

If you have a disability under the *Equality Act 2010*, make the local authority aware of this. Here, disability means a physical or mental impairment that has a ‘substantial’ and ‘long-term’ negative effect on your ability to do normal daily activities.

If you are disabled, the authority may have a duty to make ‘reasonable adjustments’ to the way its homelessness service is normally delivered. This applies if you are being put at a ‘substantial disadvantage’ by a policy or a physical feature or because you are not being given enough support.

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**Note:** If you are disabled under the *Equality Act*, the ‘*Public Sector Equality Duty*’ applies to all decisions made on your case. This is a duty to consider the need to eliminate discrimination, harassment or victimisation and advance equality of opportunity between people sharing a ‘protected characteristic’ and people who do not.

Age and disability are protected characteristics, as are race; religion and belief; sex; sexual orientation and gender reassignment. If you have a protected characteristic, when making decisions on your case, the local authority must consider any relevant aspects of the characteristic, including decisions about the suitability of accommodation offered. They are also expected to give detailed reasons to justify a negative decision.

Age UK’s Factsheet 79 *Equality, discrimination and the Public Sector Equality Duty* has further information on this topic.

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## Legal aid

Legal aid is available in areas such as defending evictions, making homelessness applications to the local authority and establishing your rights to the family home if you have experienced domestic violence. This means you can get free legal advice and representation if you are on a **low income** and your case is strong enough – Age UK’s Factsheet 43 *Getting legal and financial advice* has further information.

## 6 Actions the local authority should take when they are approached for help

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**Note:** The concept of ‘*threatened with homelessness*’ features at various points in this factsheet. As explained in section 3 above, in the context of homelessness legislation in Wales, threatened with homelessness refers to when it is likely that someone will become homeless within **56 days** and, if this is the case, the local authority must look into the situation.

Again, as previously outlined in section 3, if any of the following are likely to occur within the 56-day period the person will be threatened with homelessness:

- they have no available accommodation;
- they do have accommodation, but it is not reasonable for them to continue to live there;
- they do have accommodation, but they are not able to secure entry to it;  
*or*
- their accommodation is a ‘moveable structure’, such as a mobile home, but they don’t have a location where they are permitted to reside in it.

**The information in this section – when it discusses the duties that someone could be owed by the local authority and what the authority should do to fulfil the duty – also assumes that the applicant is eligible to apply to the local authority for assistance (as outlined in section 3.3 above, someone will be automatically eligible if they are a British Citizen, except if they have previously been living abroad and are unable to satisfy the requirements of the ‘Habitual Residence Test’).**

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## 6.1 Local authority ‘duty to assess’ (an initial assessment of the situation when a person first contacts them)

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**Note:** The authority’s duty to assess is covered in **Section 62** in *Part 2 (Homelessness)* of the *Housing (Wales) Act 2014* and **Chapter 10** of the ***Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness***.

‘Priority need’ is not a factor during this part of the process (see section 6.5 below for further information on priority need); nor should the authority take into account whether the applicant may have become ‘intentionally homeless’ at this stage (see section 6.9 for further information on this topic).

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As touched upon above in section 5.1, this duty relates to the actions a local authority should take when they are first contacted about help with homelessness (be this a request for the authority to secure accommodation directly; for help from the authority to allow the person to obtain accommodation themselves, or to retain existing accommodation which is under threat).

The local authority must carry out an assessment if “it appears to [them] that the person may be homeless or threatened with homelessness”<sup>18</sup>.

As noted above, ‘may’ in this context has a low threshold and if there is any doubt, the authority “**should err on the side of caution and begin the assessment process in order to determine whether or not [they have] any duty to the applicant under the provisions of the Act**”<sup>19</sup>.

The Code of Guidance advises that the assessment should address:

- “the person’s circumstances [and] housing need”;
- “the support needed by the applicant” – **or** “any person with whom the applicant lives or who might reasonably be expected to live” – to retain accommodation; *and*

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<sup>18</sup> Section 62 in Part 2 (Homelessness) of the Housing (Wales) Act 2014

<sup>19</sup> Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness, Welsh Government, March 2016

- “seek to identify the outcome the applicant wishes to achieve from the Authority’s help”.

You should be kept informed of the progress of your application and the timescales involved. The authority should also conduct the process in a “person-focussed” way that allows you “to participate in discussions and processes [and] make informed choices”<sup>20</sup>.

You should be given a realistic expectation of the assistance you are likely to receive, but not be discouraged from making an application or encouraged to withdraw an application you have already made. The Code of Guidance advises that the applicant “should be provided with a realistic outline of the options available and what can be provided given the local housing market, the current waiting times for appropriate social or supported housing, and the cost of private renting in the areas of their choice including whether this could be affordable and accessible to them”.

### **Time limits for completing the assessment**

There is no specific time limit set down in legislation; however, the Code of Guidance states that authorities should “notify the applicant of their decision within 10 working days” (though it also advises that “the priority is that the assessment and the decision are correct”).

## **6.2 Result of the initial assessment**

You must be given a notification in writing of the local authority’s decision, including the reasoning as to how the decision was reached.

Depending on the conclusions of the assessment, the authority may owe you certain duties and/or need to carry out other actions, as per the table overleaf:

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<sup>20</sup> Ibid

Duty owed by the local authority (or other action required)	Further information
<p><b>General information and advice</b></p>	<p>Some people may not qualify for any specific further duties from the authority, but the applicant should still be given information and advice on “accessing any relevant help for those who are, or who may become homeless”. This service is <b>“not restricted to those who are threatened with homelessness within 56 days”</b>.</p> <p>“In arranging the service, an authority may work with other local housing authorities [or] provide the service directly”. Alternatively, it might “arrange for...a voluntary advice agency to provide [it]”.</p> <p>“The service may be combined with advice services provided under the Social Services and Well-being (Wales) Act 2014”<sup>21</sup> (Age Cymru produces various factsheets on social care which include information on the <i>Social Services and Well-being (Wales) Act</i><sup>22</sup>).</p>
<p><b>Duty to help to prevent someone from becoming homeless</b></p>	<p>Note that this duty does not involve the authority finding or providing accommodation for the applicant. Rather, it is assistance to help them avoid becoming homeless when there is a risk of this – also see section 6.3 below for further details.</p>

<sup>21</sup> Section 60 in Part 2 (Homelessness) of the Housing (Wales) Act 2014

<sup>22</sup> These include Factsheet 41w *Social care assessments for older people with care needs in Wales*; 46w *Paying for care and support at home in Wales*; 42w *Obtaining disability equipment and home adaptations in Wales* and 10w *Paying for a permanent care home placement in Wales*.



<p><b>Duty to help to secure accommodation for homeless applicants</b></p>	<p>Again, this duty doesn't necessarily involve the authority (at least initially) finding or providing accommodation for the applicant, but it can carry out various activities or interventions to help the person secure suitable accommodation – see section 6.4 below for further details, including a list of the types of actions that an authority could take to fulfil this duty.</p>
<p><b><i>Determining that someone is in 'priority need' for accommodation</i></b></p>	<p>This isn't a duty in itself, but if you are found to be in priority need it will have a bearing on whether you are owed duties from the authority to secure accommodation (this being duties where the authority must find and provide accommodation, as opposed to <i>help</i> someone in this regard). See section 6.5 below for further information on priority need.</p>
<p><b>Interim duty to secure accommodation for applicants in priority need</b></p>	<p>The local authority may need to secure accommodation on a temporary (interim) basis whilst they continue to carry out their enquiries into the case – see section 6.6 below for further information.</p>
<p><b>Duty to secure accommodation for priority need applicants</b></p>	<p>This '<b>final duty</b>' may be owed if the initial 'help to secure' duty comes to an end and the applicant is still in a situation where they require suitable long term accommodation – further information on this duty can be found in section 6.7 below.</p>

### Right to request a review

The written notification, referred to above, must also contain information on the applicant's right to request a review if they disagree with the results of the authority's assessment – see section 7 below for further details.

## 6.3 Local authority duty to help to prevent someone from becoming homeless

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**Note:** The authority's duty to help to prevent someone from becoming homeless is covered in **Section 66** in *Part 2 (Homelessness)* of the *Housing (Wales) Act 2014* and **Chapter 12** of the **Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness**.

A local authority is not able to take account of 'intentional homelessness' under this Section 66 duty – i.e. even if the authority believe that the applicant may have taken actions that could lead to them becoming homeless intentionally, the local authority must still act under this duty (section 6.9 below has further details on intentional homelessness).

'Priority need' is not a factor during this part of the process (though may become relevant if further decisions on duties are being made by the local authority later on – see the rest of section 6 below).

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The Code of Guidance advises that following their assessment (under Section 62), if a local authority "deems an applicant to be **threatened** with homelessness within 56 days, it is obliged to help an eligible applicant to prevent them becoming homeless".

Even though the authority is not under a duty to at this stage, it could choose to directly meet the person's housing need, or it can assist them "in one or more of the following ways":

- "To remain in their current accommodation;
- to delay a need to move out of current accommodation in order to allow a planned move into alternative accommodation;
- to find alternative accommodation; and/or
- to sustain independent living".

Measures that a local authority could take to achieve these objectives include:

- help with budgeting advice;
- discretionary financial assistance; *or*
- referral to a charity for support.

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**Note:** You may also wish to look at a detailed list in section 6.4 below, which relates to a different duty, but many of the local authority actions listed could also be used to meet their Section 66 duty.

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The Code of Guidance goes on to stress that:

“Where applicants have been assessed and were owed the section 66 duty to help prevent homelessness and *unsuccessful action* is taken to prevent homelessness, if they then become homeless **their assessment will need to be reviewed in order to inform what further reasonable steps can be taken under the [Section 73] duty to help secure accommodation**” (emphasis added). Again, see section 6.4 of this factsheet, which follows.

## 6.4 Local authority duty to help to secure accommodation for homeless applicants

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**Note:** The authority’s duty to help to secure accommodation is covered in **Section 73** in *Part 2 (Homelessness)* of the *Housing (Wales) Act 2014* and **Chapter 13** of the ***Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness***.

As with the Section 66 duty covered above, the authority should not take account of ‘intentional homelessness’ when providing help to secure accommodation under Section 73.

However, having said this, during the time that the Section 73 duty lasts for (56 days, or less if the situation is resolved within that timeframe), the authority *can* investigate whether an applicant became intentionally homeless if they are assessing whether the person may be owed the subsequent ‘final’ housing duty (to secure accommodation; as opposed merely to *help* secure) – section 6.7 of this factsheet below has further information on the ‘final’ duty. If it becomes clear to a local authority that an “applicant could be found to be intentionally homeless before the point where it is required to determine [this]...the Welsh Government recommends that the applicant is notified in writing that the Local Authority is minded to find them intentionally homeless when the appropriate stage of the assessment of duties owed is reached and what the consequence of that decision could be for them”.

“This will allow the applicant time to provide any further explanation or evidence they have and for them to make informed, realistic choices”<sup>23</sup>. Section 6.9 of this factsheet below has further details on intentional homelessness.

‘Priority need’ is not a factor during this part of the process (though may become relevant if further duties might be owed by the local authority later on – see the rest of section 6 below).

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<sup>23</sup> Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness, Welsh Government, March 2016

If the local authority's assessment determines that an applicant is homeless, the Code of Guidance says that the authority “must **help** to secure...suitable accommodation...for occupation by [the] applicant” (emphasis added).

In other words, this does not mean that the authority has to actually secure or provide accommodation for the person, but they must provide assistance to the applicant to *help* them to achieve this aim.

### Examples of actions or interventions the local authority can make to help someone secure accommodation

#### ● **Housing Options Advisors and/or Independent housing advice**

The authority itself could provide “constructive advice to individuals to help identify and tackle the underlying housing and other needs of the applicant(s) and the factors associated with their threatened homelessness” and/or “refer individuals to a relevant local advice service such as Shelter Cymru, which may be the most suitable agency to provide specialist advice”.

#### ● **Mediation or conciliation services to resolve disputes between different parties**

The authority can “assist clients to resolve relationship issues via mediation and conciliation services. This might include family, spousal or neighbourly relationships that have resulted in a threatened eviction”.

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**Note:** Local authorities “will need to be aware that it is **not** always appropriate to undertake mediation in all situations (e.g. domestic abuse)” (emphasis added).

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#### ● **Specialist advice on welfare/benefit rights and debt/money advice. Also, financial payments from a homelessness prevention fund and/or Discretionary Housing Payments (DHPs) may be available**

Welfare rights and debt advice can be provided by the authority itself, or via an independent agency, to “support an individual to negotiate with lenders and set a realistic household budget”, for example.

Alternatively, people can be supported to downsize to smaller (and more affordable) accommodation.

In some situations, financial assistance might be provided to “clear possible debts and/or assist [someone] to move to other accommodation”, though the authority might only take this course of action if they felt that ‘underlying causes’ of a debt situation had been addressed (i.e. to ensure that a further ‘cycle of debt’ didn’t occur).

- **Joint working between local authorities and registered social landlords to prevent homelessness**

“This support could potentially range from helping with an application for social housing...added priority on choice based lettings [or] discussing and resolving rent arrears”.

- **Joint approaches with other services, such as health (NHS) and social care services (provided by the local authority’s social services department)**

The housing department of the local authority should work in partnership with colleagues within the authority’s social services department, where this could be relevant to assisting a homelessness applicant and/or appropriate NHS organisations.

A “holistic plan” to prevent the applicant’s homelessness can be “integrated into a statutory care and support plan under the Social Services and Well-being (Wales) Act 2014” (Age Cymru’s Factsheet 41w *Social care assessments for older people with care needs in Wales* has further information on assessments and care plans co-ordinated by social services departments).

- **Domestic abuse services**

The local authority can support someone to access domestic abuse services, including “personal safety advice [or] help to find a refuge placement”.

Refuges are for women who leave their home because of domestic violence or abuse. They are usually ordinary houses shared by women and children – generally with a bedroom to yourself, with other facilities being shared, such as the kitchen. Some accommodation might consist of self-contained flats. You do not have to go to a refuge in your own area and the address is kept secret to protect residents. Refuge staff can help you to claim benefits and find more permanent housing. There are also some refuges for male victims.

Contact Women’s Aid, the Live Fear Free Helpline or Refuge for further information – see section 8 below for their contact details.

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**Note:** People who have experienced domestic abuse are likely to be classed as in priority need when they make a homelessness application – see section 6.5 below.

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- **Crisis intervention – “Securing accommodation immediately (e.g. through a partner agency, hostel or payment to a landlord)”.**

Hostels or night shelters usually provide accommodation for just a few nights, but they may have a resettlement worker who can support you in gaining more permanent accommodation. They usually accept people without money but expect you to claim benefits to pay for accommodation. You may have to share your bedroom and other facilities such as kitchens or bathrooms. Some hostels close during the day. Shelter Cymru should be able to provide further information – see section 8 below for contact details.

- **Employment and training options advice**

This would be applicable if an “applicant’s housing situation would be improved by enhanced employment and training”.

- **Housing support**

Support for people to sustain their current accommodation.

- **Specialist services for armed forces personnel/veterans**

The authority can “support armed forces veterans to access the specialised services available to them”. Also, you may wish to contact Veterans’ Gateway for further information – see section 8 below for contact details.

- **Action to resolve anti-social behaviour (ASB)**

This could include “referrals to an ASB preventative support service, including interventions relating to responding to hate crime and/or harassment”. Also see Age Cymru’s Factsheet 9w *Housing in Wales – anti-social behaviour and other neighbourhood issues* for further information.

- **Options to facilitate access to the private rented sector**

“This could be via support to the applicant to access a locally managed private rented sector access service” (these should be available in “every Local Authority area”). “Payments for rent in advance or [a] deposit and/or bond scheme” may also be available.

- **Action to intervene with mortgage arrears**

“Help to access local and national programmes to support people at risk of homelessness as a result of mortgage arrears, including mortgage rescue schemes where available”.

- **Action to support disabled applicants**

The local authority could assist someone to adapt an existing property – for example via “DFGs, PAGES and RRAP [Disabled Facilities Grants, Physical Adaptations Grants and the Rapid Response Adaptations Programme]...and where appropriate, consider a referral to one of the Welsh Accessible Housing Registers”. Age Cymru’s Factsheet 42w *Obtaining disability equipment and home adaptations in Wales* has further information on adaptations, including the programmes referred to above.

- **Access to supported housing**

“Where a support need is identified [the authority can] refer and manage a transition to supported housing or placement on a relevant waiting list”.

- **Arranging accommodation with relatives and friends**

“Help to identify and secure, including mediation where necessary, suitable accommodation with relatives or friends”.



## ● Options for the accommodation of vulnerable people

Authorities should “ensure that all options are considered including the potential for the applicant to be accommodated and supported in housing which is funded, for example, by health, social services, the [Housing Support Grant] or through third sector grant funding”.

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**Note:** The above “is by no means an exhaustive list, nor is it a prescriptive set of minimum interventions to be offered to each applicant”. Authorities must consider the most appropriate intervention/s on a “case-by-case basis, which are most likely to result in a positive outcome”<sup>24</sup>.

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### Interim accommodation

At the same time as having the Section 73 ‘help to secure’ duty, the authority may *also* have a duty to secure **interim** accommodation for an applicant who has a **priority need** for accommodation.

The ‘interim accommodation’ duty is a separate, standalone, duty to ‘help to secure’, though they run in tandem with each other – see section 6.6 below for further information on interim accommodation and section 6.5 for further details about priority need.

### When Section 73 ends

Depending on the circumstances, at this point the local authority may have to ensure that suitable accommodation is made available to the applicant (i.e. as opposed to only *helping* to secure), if the situation has not already been resolved. This further duty is outlined in section 6.7 below.

If the authority believes the situation is resolved and they do not owe an applicant any further duties, they must notify the applicant in writing, setting out their reasoning and advising that there is a right to request a review (see section 7 below).

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<sup>24</sup> Ibid

## 6.5 In ‘priority need’ for accommodation

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**Note:** Priority need is covered in **Section 70** in *Part 2 (Homelessness)* of the *Housing (Wales) Act 2014* and also in **Chapter 16** of the **Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness**.

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As outlined in sections 6.1 to 6.4 above, under the *Housing (Wales) Act 2014*, you “**do not need to have been assessed as being in one of the priority need groups**” when gaining initial assistance from the local authority<sup>25</sup>.

**However**, the concept of priority need plays a significant role when determining whether an applicant is owed **further duties**, namely:

- *Section 68 – Interim duty to secure accommodation for applicants in priority need* (see section 6.6 of this factsheet below for further details); and
- *Section 75 – Duty to secure accommodation for priority need applicants when the initial help to secure duty has ended* (see section 6.7 of this factsheet below for further details).

### People who are defined in the *Housing (Wales) Act 2014* as having a priority need

- **A person with a dependent child/children living with them** (or children “who might reasonably be expected to live with them”<sup>26</sup>).
- **Someone who is “vulnerable due to [a] special reason” – this may include, amongst other groups, older people** (see below). The Code of Guidance lists the following (it should be noted that the priority need *also* applies to those who reside with, or might reasonably be expected to reside with, the applicant who is vulnerable):

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<sup>25</sup> Ibid

<sup>26</sup> Ibid

- Older people aged over 60 (“age alone may not necessarily be sufficient for the applicant to be deemed vulnerable [however the authority] should consider whether it is a factor which makes the applicant less able to fend for him or herself. Applications from people aged over 60 need to be considered carefully...and Authorities should normally consider applicants over 60 to be vulnerable”. Having said this, authorities “should not use 60 (or any other age) as a fixed age beyond which vulnerability occurs automatically, or below which it is ruled out; each case will need to be considered on its individual circumstances”<sup>27</sup>).
- Someone who has a mental and/or physical illness or disability (the degree of severity of the condition will be particularly relevant).
- People sleeping rough – “People who are sleeping rough are likely to be vulnerable due to the health and social implications of their situation. Authorities need to be proactive in ensuring that rough sleepers can access the housing and support services that they need to be able to find sustainable solutions to address their circumstances”. Authorities are also reminded that “many people, who have been homeless long term, have multiple needs, often including mental health and substance misuse problems. Someone may be vulnerable not from a single need but from a combination of needs. Statutory and voluntary sector services should be co-ordinated to identify and address multiple needs in a joined-up and flexible way”<sup>28</sup>.
- People “who have suffered, or who are at risk of...hate incidents or hate crime”. This could be on account of “gender, physical or mental health issues, race, colour, ethnic or national origin, religion or sexual orientation”, though this is not an exhaustive list<sup>29</sup> (domestic violence is also likely to indicate priority need – see separate point below).
- Vulnerable as a result of time spent in custody or on remand.

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<sup>27</sup> Ibid

<sup>28</sup> Ibid

<sup>29</sup> Ibid

- **Someone who is homeless as a result of an emergency, such as a fire and flood** (in these cases the person wouldn't have to have any other vulnerabilities – the priority need would still apply. The priority need extends to those who reside with, or might reasonably be expected to reside with, the applicant).
  
- **A person who has been subjected to domestic abuse**, plus those who reside with, or might reasonably be expected to reside with, the applicant. It should be noted that “the likelihood of a threat of abuse being carried out should not be based on whether there has been actual abuse in the past. Assessment should be based on the facts of the case, to determine whether the abuse or threatened abuse is the cause of the homelessness. Inquiries into cases where abuse is alleged should be handled carefully and with sensitivity”<sup>30</sup>. Authorities are also advised not to approach the alleged perpetrator, as this could cause further violence and that in some cases, corroborative evidence of actual or threatened violence may not be available – for example if there were no adult witnesses or if someone did not feel able to make a police report. Lack of corroborative evidence should not, in itself, be a ground for deciding that someone didn't have priority need.
  
- **A pregnant woman** (plus those who reside with them, or might reasonably be expected to).
  
- **Someone who is aged 16 or 17; or “a young person 18 or over but under the age of 21” at risk of “sexual or financial exploitation”, or who has previously been living in local authority care**<sup>31</sup> (plus the priority need *also* applies to those who reside with, or might reasonably be expected to reside with, the applicant).
  
- **Someone who is homeless since leaving the armed forces** (plus those who reside with them, or might reasonably be expected to).

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<sup>30</sup> Ibid

<sup>31</sup> Ibid

## 6.6 Interim duty to secure accommodation for applicants in priority need

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**Notes:** The authority's interim duty to secure accommodation for those in priority need is covered in **Section 68** in *Part 2 (Homelessness)* of the *Housing (Wales) Act 2014* and **Chapter 11** of the **Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness**.

'Intentional homelessness' will not be a factor that the local authority should look at if they are providing interim accommodation prior to reaching a decision on whether an applicant is owed a duty under Section 73 (local authority duty to help to secure accommodation – see section 6.4 of this factsheet above).

However, authorities **can** consider intentionality at the point that they are determining whether an applicant is owed the '**final duty**' (*Section 75: to secure accommodation*) – see the following section of this factsheet.

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If the local authority has "reason to believe" you may be homeless (or threatened with homelessness) **and** in priority need they have an "immediate duty" to offer you suitable 'interim' accommodation whilst they look into your case and establish whether you are owed a duty under Section 73 of the Act (*Duty to help to secure accommodation*) and then, potentially – depending on the result of the authority's enquiries – the 'full' housing duty (see section 6.4 and 6.7 of this factsheet respectively).

**Note here, the significance of being in 'priority need'**, meaning the authority must find the applicant interim accommodation (which differs from other applicants who don't have this automatic right whilst the authority conducts enquiries – though the authority could choose to provide it if it thought it appropriate in the circumstances).

**'Reason to believe' carries a low threshold for taking action** – i.e. because the authority only needs to establish that the applicant *may* be homeless and in priority need, rather than being "satisfied" of this, as is the case with other duties. The Code of Guidance goes on to advise that:

If the local authority “is in any doubt about whether or not the applicant meets any of these criteria, then it must accept an interim duty to accommodate pending completion of its enquiries into whether a person is homeless and eligible”.

Where an applicant “is not offered interim accommodation relief as the [authority] does not consider there may be a priority need, the Welsh Government recommends that the decision is communicated in writing on the day of this decision, setting out the reasons why and informing the [applicant] of their right to [request a] review” – see section 7 of this factsheet below.

## 6.7 Local authority duty to secure accommodation for priority need applicants when the initial *help to secure duty* has ended – the ‘full’ housing duty

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**Note:** The authority’s duty to secure accommodation for priority need applicants is covered in **Section 75** in *Part 2 (Homelessness)* of the *Housing (Wales) Act 2014* and **Chapter 14** of the ***Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness***.

The authority will be able to use “evidence already gathered during the ongoing assessment but at this stage will need to be satisfied that the applicant is in a priority need category” in order for action under the Section 75 duty to proceed<sup>32</sup>.

The Code of Guidance advises that local authorities “must consider if an applicant is intentionally homeless when it is determining if the [Section] 75 duty to accommodate an applicant in priority need is owed” – further information on intentional homelessness can be found in section 6.9 of this factsheet below.

A Section 75 duty will **not** be owed if the authority is “satisfied that the applicant is intentionally homeless”.

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<sup>32</sup> Ibid

## The 'full' housing duty

**Under the Section 75 duty (to secure accommodation for priority need applicants), the local authority must directly provide or organise accommodation to the person who qualifies<sup>33</sup>, rather than just *help* a person to avoid homelessness and/or *assist* them to find accommodation. This is why this duty is sometimes referred to as the 'full' housing duty.**

The Code of Guidance advises that Section 75 “**places a duty on Local Authorities to secure accommodation for applicants in priority need where the duty in [Section] 73 (help to secure accommodation) has ended**” (either because a period of 56 days has ended since the start of Section 73; or the period hasn't been reached yet, but all reasonable steps have been taken).

The Section 75 duty “can only follow the [Section] 73 duty, and in appropriate cases, the [Section] 66 duty to help prevent will also have been owed first”.

In theory, “the reasonable steps taken under [Section] 66 and [Section] 73 will mean that for many applicants considerable work will have been completed and a successful solution found. Thus the [Section] 75 duty to secure accommodation should only be required for a limited number of applicants”.

## Actions by the local authority to meet their 'full' housing duty

The authority will need to offer one of the following and **must notify the applicant in writing** the details of their offer:

- Suitable accommodation via the authority's housing allocation scheme – i.e. a council housing or housing association property; **or**
- suitable accommodation in the private rented sector, with an occupation contract that “must be for a minimum period of at least 6 months”<sup>34</sup> (see below for further information on the use of private sector housing); **or**

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<sup>33</sup> As well as the applicant, this will include another person/s who would reasonably be expected to reside with them.

<sup>34</sup> Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness, Welsh Government, March 2016

- pending one of the above two types of offer, provision of **temporary** accommodation (this might be a continuation of accommodation under Section 75 that has already been made available under the Section 68 ‘Interim’ duty; or temporary accommodation provided solely under Section 75). Any accommodation provided on a temporary basis must still be ‘suitable’<sup>35</sup> (see section 6.8 of this factsheet below for further information on ‘suitability’).

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### Important: If an applicant refuses an offer

It should be noted that the local authority may well decide that they have discharged their duty if the applicant declines housing provision offered by the authority of a type outlined in the bullet points above. However, “the duty does not end unless the applicant is [first] informed in writing...of the possible consequence of refusal or acceptance, and of his or her right to ask for a review of the suitability of the accommodation”<sup>36</sup>.

**You can request a review whether you accept an offer or not, so in most cases it is advisable to accept and then subsequently seek to challenge suitability.** See sections 6.8 and 7 below for further information on suitability of accommodation and reviews of decisions.

If the duty ends because you refused a suitable offer, the authority has no obligation to provide any further assistance. If you are in temporary accommodation, they usually take steps to terminate your placement. Seek advice immediately if you are in this position from an organisation such as Shelter Cymru – see section 8 below for their contact details.

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### Private rented sector offers

Since the introduction of the *Housing (Wales) Act 2014*, local authorities have been able to discharge their Section 75 duty by an offer of suitable accommodation in the private rented sector, as detailed above. The Code of Guidance provides additional information on this issue:

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<sup>35</sup> The Code of Guidance advises that this also includes accommodation provided previously as interim accommodation – i.e. where it continues to be used for the purposes of Section 75 it must remain suitable for the applicant (and any other person reasonably expected to reside with them).

<sup>36</sup> Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness, Welsh Government, March 2016



“Greater use of the private rented sector must be made [by local authorities] to prevent homelessness from occurring or to provide settled accommodation for people living in temporary accommodation. Local Authorities must develop strong relations with private landlords, for example through landlord forums”. Additionally, the same Act “put in place a licensing and registration requirement on private sector landlords via Rent Smart Wales [and] this requirement will help to increase the options locally” and provide better regulation of the sector.

Having said this, the Guidance recognises that private rented sector housing “will not be appropriate for all applicants. In particular, Local Authorities will need to consider the suitability of accommodation for those applicants who require support to accompany their housing. Authorities should [also] consider potential risks to an applicant when offering / sourcing accommodation which is shared. Authorities need to be sensitive to those who may face harassment or racist, homophobic, or transphobic abuse from housemates and their visitors. Local Authorities should also consider the applicant’s risk of exploitation by sharers, visitors or neighbours. Applicants with learning disabilities [or] mental health issues...may be at a higher risk of exploitation”.

“Access to the private rented sector can be difficult for people on low incomes so Local Authorities should also ensure initiatives are developed in their local area to enable access to the sector for vulnerable and homeless people”. As well as financial support to access the sector, this may also include other types of ongoing support.

## 6.8 Suitable offers

All accommodation provided under *Part 2 (Homelessness)* of the *Housing (Wales) Act 2014* must be suitable for the applicant **and** all other household members. This applies with all of the following duties (already covered above) where the authority wishes to discharge its duty via an offer of accommodation:

- Section 66 – *Local authority duty to help to prevent someone from becoming homeless*
- Section 73 – *Local authority duty to help to secure accommodation for homeless applicants*

- Section 68 – *Interim duty to secure accommodation for applicants in priority need*
- Section 75 – *Local authority duty to secure accommodation for priority need applicants when the initial help to secure duty has ended*

The *Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness* advises that:

Local authorities “need to take account of any medical and/or physical needs, and any social considerations which might affect the suitability of accommodation. For example, accommodation may be unsuitable for disabled applicants because of its location (e.g. in hilly areas), and some disabled applicants may require certain facilities to be close at hand (e.g. an exercise area for a guide dog or a parking space for a car on which they rely). Authorities should also consider factors such as access to [community] services and facilities (e.g. GPs and informal support networks) with a view to maintaining stability for the household”. Also, “any risk of abuse or hate crime should also be taken into account”.

In considering suitability, the individual’s care and support needs may interlink with the above issues and so authorities should also ensure that they “fulfil their duties afforded by the Social Services and Well-being (Wales) Act 2014” (this would entail the housing department of the local authority, liaising with the social services department).

“Suitability of accommodation may arise from the care and support needs identified [in a social care assessment]”. Further information on assessments and care plans co-ordinated by social services departments can be found in Age Cymru’s Factsheet 41w *Social care assessments for older people with care needs in Wales*.

### **Local authority provision of accommodation outside of their area**

As far as reasonably practicable, authorities must make offers of accommodation within their own areas. Under the guidance, accommodation should be provided as close as possible to where you were previously living.

If an authority offers accommodation outside their area (an ‘out-of-area offer’), they must consider how distant this is from the original area. The guidance states that an out-of-area offer is unlikely to be appropriate if suitable and affordable accommodation is available closer to the area. It states that authorities should avoid placing households in isolated accommodation away from public transport, shops and other facilities.

If you or a member of your household needs medical or other support, the authority should consider whether similar support is available near the accommodation offered and, if so, whether you would have any difficulties in accessing it that you do not have now. Non-medical support includes essential support from relatives or support groups which would be difficult to replicate in another area.

If you are made an offer of accommodation outside your local authority area, you could seek advice from Shelter Cymru – see section 8 below for their contact details.

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### **Note: Challenging suitability**

It is possible to challenge the suitability of accommodation with the local authority, though there are some important issues to bear in mind if thinking of following this route. As mentioned in section 6.7 of this factsheet above, under the authority’s Section 75 duty (*to secure accommodation for priority need applicants when the initial help to secure duty has ended*), an applicant still has the right to request a review of the suitability of accommodation offered, whether or not they accept the offer.

**However, applicants should be aware that often challenges on the grounds of suitability don’t succeed. Therefore, it may be prudent for an applicant to accept an offer and to then request a review, so that they have accommodation as a safety net in the event the review is not successful.**

Also see section 7 below for additional information.

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## 6.9 Overview of 'intentional homelessness'

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**Note:** A number of the sections above have information on when a local authority can take intentional homelessness into account at various stages of the process. This section has some additional general information on this topic.

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**It should be noted that the local authority can say you made yourself 'intentionally homeless' if any of the following apply:**

- you are homeless because of something you deliberately did or failed to do – a 'deliberate act or omission' (see the table on the following page);
- accommodation was available for your occupation;
- it would have been reasonable for you to continue to live there (there can be no finding of intentionality, for example, if someone is fleeing domestic violence, as it would not have been reasonable to expect them to carry on living where they were).

**Investigations into intentional homelessness must be carried out on a case-by-case basis** and authorities must not have blanket policies "which assume all particular types of applicants will be found intentionally homeless"<sup>37</sup>.

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<sup>37</sup> Ibid

<b>Examples of acts or omissions that could be regarded as deliberate:</b>	<b>An act or omission is generally <i>not</i> considered deliberate if:</b>
<ul style="list-style-type: none"> <li>● You chose to sell your home when you were not at risk of losing it.</li> <li>● You lost your home because of a ‘wilful and persistent’ refusal to pay your rent or mortgage.</li> <li>● You disregarded sound advice from qualified persons and ‘significantly neglected’ your affairs.</li> <li>● You voluntarily gave up a suitable property in the UK or abroad when it would have been reasonable to continue living there.</li> <li>● You were evicted because you carried out anti-social behaviour, violence or threats of violence.</li> <li>● You left a job with tied accommodation when it would have been reasonable to continue in that role and property, unless you left the armed forces in which case different rules apply.</li> </ul>	<ul style="list-style-type: none"> <li>● It was the result of limited mental capacity or a temporary lapse in capacity caused by mental illness, frailty or an assessed substance abuse problem.</li> <li>● You were under duress.</li> <li>● Someone “has lost their home, or had to sell, because of rent or mortgage arrears resulting from significant financial difficulties [which] have arisen due to circumstances beyond the control of the applicant, e.g. reduction in salary, Welfare Reform, redundancy” or delays in the payment of a welfare benefit/s<sup>38</sup>.</li> <li>● The local authority has reason to believe you are incapable of managing your affairs, for example because of your age and/or physical or mental illness/disability.</li> <li>● You acted with imprudence or lack of foresight, but in good faith (for example, someone gets into rent arrears, being unaware that they may be entitled to housing benefit and/or other welfare benefits).</li> </ul>

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<sup>38</sup> Ibid

## 6.10 'Local connection' and homelessness application referrals from one local authority to another

In circumstances where an authority would be subject to Section 73 (*duty to help to secure accommodation for homeless applicants*), it may consider referring the application on to a different local authority area, if the following conditions are met **and** the applicant is in priority need and unintentionally homeless:

- your household must have no local connection whatsoever to the area where you made your application (the 'receiving' local authority area); *but instead*
- your household must have a local connection to the *other* local authority area; *and*
- neither the applicant (nor anyone reasonably expected to reside with them) will be at risk of domestic abuse, or other forms of violence or harassment, in the other area to which the authority wishes to refer them (a case *cannot* be referred to another local authority if the applicant or another member of the household would be at risk of violence or threats of violence likely to be carried out).

The local authority **must** inform the applicant if it is planning to refer their case to another authority.

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### Note: Establishing a local connection

A person will have a local connection with the area covered by a local authority's housing department if:

- they are 'normally resident' in the area or have been in the recent past (normal residence should generally be accepted by the authority if an applicant has been living in an area for 6 out of the last 12 months, or 3 out of the last 5 years); *and/or*
- they are employed there; *and/or*
- they have family associations there; *and/or*
- due to other special circumstances (possibilities here include a need to receive special medical or support services that are only available there; or an applicant wishing to return to an area where they were brought up *and/or* have lived for a considerable period of time in the past).

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### If the other local authority accepts the referral

If the authority agrees that the conditions for referral have been met, they must also accept the original referring authority's decisions that have already been taken on:

- whether the applicant is homeless, or at risk of homelessness;
- is in priority need; *and*
- whether intentionality is a factor.

The new authority will then take on the duties to provide interim accommodation (Section 68) and to help secure accommodation (Section 73).

The new authority can, however, re-examine the situation if it is "reviewing the decision at the end of the [Section] 73 duty to establish if [Section] 75 applies" (*duty to secure accommodation*)<sup>39</sup>.

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<sup>39</sup> Ibid

## If the referral is rejected

In this scenario, the original authority will remain subject to their Section 73 duty (*to help to secure accommodation*) and, where applicable, the Section 68 duty (*to secure interim accommodation*).

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**Note:** Where authorities are unable to agree who is responsible, “they must seek to agree on a person to be appointed to make the decision for them. If unable to agree on who should be the appointed person, they may wish to seek advice from the Welsh Local Government Association”<sup>40</sup>.

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### 6.11 Local authority duty to protect people’s personal possessions and property

The *Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness* advises that “applicants may be unable to protect their property if, for example, they are ill, or are unable to afford to have it stored themselves. In order to protect an applicant’s property, an Authority can enter [their] current or former home and deal with the property in any way which seems reasonably necessary”.

The authority will have a duty to help in these circumstances if they already need to fulfil one of the following duties:

- Section 66 (*duty to help to prevent an applicant from becoming homeless*) in the case of an applicant in priority need;
- Section 68 (*interim duty to accommodate applicants in priority need*);
- Section 75 (*duty to secure accommodation for applicant in priority need when duty in section 73 ends*); or
- Section 82 (*duties to applicant whose case is considered for referral or referred*) in the case of an applicant in priority need.

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<sup>40</sup> Ibid



## 7 Challenging decisions made by the local authority

If an applicant wishes for a decision to be reviewed, they must request this within 21 days of receiving notification from the local authority of the decision. It would be a good idea to put the review request in writing.

### 7.1 Types of decisions that can be reviewed

Homelessness applicants have the right to request a review of a range of decisions regarding:

- Whether or not duties are owed to them under Section 66, Section 68, Section 73 or Section 75. As discussed elsewhere in the factsheet, these duties are, respectively:
  - *duty to help to prevent someone from becoming homeless;*
  - *interim duty to secure accommodation for applicants in priority need;*
  - *duty to help to secure accommodation for homeless applicants;* and
  - *duty to secure accommodation for priority need applicants when the initial help to secure duty has ended.*
- The local authority choosing to end one of the duties listed in the previous bullet point.
- “Any decision made on the discharge of” Section 73 (*duty to help to secure accommodation for homeless applicants*) “following either (a) the end of the 56 day period of support to relieve homelessness; or (b) that the Authority is satisfied that accommodation is available and that the accommodation is likely to be available for at least six months”.
- A referral from one local authority to another, including any subsequent decision “as to whether the notified Authority or the notifying Authority owe the duty to secure accommodation in a case considered for referral or [already] referred”<sup>41</sup>.
- The suitability of accommodation offered and/or accepted by the applicant.

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<sup>41</sup> Ibid

## 7.2 Accommodation pending a review

Local authorities have a **power** (though not a *duty*) to provide accommodation for someone pending the outcome of a review. The *Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness* advises that:

Local authorities – “in considering whether to exercise [this] power” – “will need to balance...the objective of maintaining fairness between homeless persons in circumstances where they have decided that no duty is owed to them, and...proper consideration of the possibility that the applicant might be right (and the Local Authority wrong) and that to deprive the applicant of accommodation could result in the denial of an entitlement. In weighing the balance, there are certain matters that the Authority will always need to consider (although other matters may also be relevant)”:

- The extent to which “**the decision was either one that appears to be contrary to the merits of the case or one that required a very fine balance of judgement that could have gone either way**”;
- whether any relevant “**new material, information or argument** has been put to the Authority”; *and*
- “the personal circumstances of the applicant and the **consequences to him or her of a decision not to exercise the discretion to accommodate**” (emphasis added).

## 7.3 Escalating a complaint to the Public Services Ombudsman for Wales

You can complain to the Public Services Ombudsman for Wales if you think the local authority have not followed the correct procedures or treated you fairly – see section 8 below for their contact details.

### The Ombudsman’s remit

The Ombudsman cannot overturn a decision made on your case (for example that you are not homeless or not in priority need). However, they can investigate the **way** a decision has been made, plus consider whether injustice has occurred due to maladministration or service failure by the local authority.

Maladministration might occur if the authority:

- takes too long to carry out its duties;
- fails to follow their own rules and/or the law;
- break their promises;
- treat an applicant unfairly; *or*
- provides the applicant with factually incorrect information.

The Ombudsman will not normally consider an issue regarding a local authority before you have completed the authority's internal review and/or complaints procedure. However, if this takes too long – for example if you have not received a final decision within 12 weeks – you can go straight to the Ombudsman. If there is any doubt about whether the Ombudsman can look into a complaint, you could contact the Ombudsman's office – see section 8 below for their contact details.

## 8 Useful organisations

### Age Cymru Advice

Free and confidential information and advice on matters affecting the over 50s in Wales.

**Tel: 0300 303 44 98**

**E-mail: [advice@agecymru.org.uk](mailto:advice@agecymru.org.uk)**

**Website: [www.agecymru.org.uk/advice](http://www.agecymru.org.uk/advice)**

### Age Cymru organisations (local)

Your local Age Cymru may be able to provide advice and support on a range of issues. **Age Cymru Advice** can provide details of your local Age Cymru (see above), or visit the Age Cymru website at:

[www.agecymru.org.uk/local](http://www.agecymru.org.uk/local)

## **Citizens Advice Bureaus (CABs)**

National network of free advice centres offering confidential and independent advice, face to face or by telephone.

Tel: 0800 702 2020

Details of your nearest CAB can be found at:

[www.citizensadvice.org.uk/wales](http://www.citizensadvice.org.uk/wales)

## **Equality Advisory & Support Service (EASS)**

EASS operate a helpline providing information and advice about discrimination and human rights issues. Contact them if you want to know more about the *Equality Act 2010* in the context of homelessness.

Tel: 0808 800 0082

Website: [www.equalityadvisoryservice.com](http://www.equalityadvisoryservice.com)

## **Family Mediation Council (The)**

There is a search facility on their website where you can locate registered mediators in your area.

Website: [www.familymediationcouncil.org.uk](http://www.familymediationcouncil.org.uk)

## **Live Fear Free Helpline**

A free helpline providing advice in regard to dealing with violence against women, domestic abuse and sexual violence. They can help anyone who is experiencing, or has experienced, abuse or sexual violence.

They can also offer advice if you are concerned about another person, such as a friend, family member or colleague; or if you are a practitioner seeking professional advice.

Their services are available 24 hours a day 7 days a week.

Tel: 0808 80 10 800

Text: 07860077333

E-mail: [info@livefearfreehelpline.wales](mailto:info@livefearfreehelpline.wales)

Website: [www.gov.wales/live-fear-free](http://www.gov.wales/live-fear-free)

## National Debtline

A charity providing free, impartial and confidential debt advice.

Tel: 0808 808 4000

Website: [www.nationaldebtline.org](http://www.nationaldebtline.org)

## Older People's Commissioner for Wales

Independent champion for older people across Wales.

Tel: 03442 640670

E-mail: [ask@olderpeople.wales](mailto:ask@olderpeople.wales)

Website: [www.olderpeople.wales](http://www.olderpeople.wales)

## Public Services Ombudsman for Wales

The Ombudsman looks to see whether people have been treated unfairly or have received a bad service from a public body, such as a local authority.

Tel: 0300 790 0203

E-mail: [ask@ombudsman.wales](mailto:ask@ombudsman.wales)

Website: [www.ombudsman.wales](http://www.ombudsman.wales)

## Refuge

A specialist domestic abuse organisation that offers support to women and children.

Helpline: 0808 2000 247

Website: [www.refuge.org.uk](http://www.refuge.org.uk)

## Rent Smart Wales

An organisation that processes landlord registrations and grants licences to landlords and agents who need to comply with the *Housing (Wales) Act 2014*. Rent Smart Wales has a public register, so you can check if your landlord or agent is registered or licensed.

Tel: 03000 133344

Website: [www.rentsmart.gov.wales](http://www.rentsmart.gov.wales)

Rent Smart Wales register: [www.rentsmart.gov.wales/check-register](http://www.rentsmart.gov.wales/check-register)

## **Shelter Cymru**

A charity providing advice to people with housing problems. This covers a wide range of topics, including issues around rent; rights for contract-holders; eviction; homelessness and repairs.

Tel: 08000 495 495

Website: [www.sheltercymru.org.uk](http://www.sheltercymru.org.uk)

## **StepChange Debt Charity**

StepChange offers free and independent debt advice and can help you explore your options including setting up a debt management (repayment) plan.

Tel: 0800 138 1111

Website: [www.stepchange.org](http://www.stepchange.org)

## **Tai Pawb**

An organisation in Wales that promotes equality and social justice in housing. They work in partnership with the providers and receivers of housing services, local authority partners, third sector (voluntary organisations) and the Welsh Government.

Tel: 02921 057 957

E-mail: [info@taipawb.org](mailto:info@taipawb.org)

Website: [www.taipawb.org](http://www.taipawb.org)

## **Veterans' Gateway**

An organisation that provides a single point of contact for veterans seeking advice and support (Veterans' Gateway is made up of a consortium of organisations and Armed Forces charities).

Tel: 0808 802 1212

Website: [www.veteransgateway.org.uk](http://www.veteransgateway.org.uk)

## Welsh Government

The devolved government for Wales. Their website has information on housing and homelessness, including access to the *Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness* – see section 2.2 of this factsheet above for a link.

Tel: 0300 060 4400

E-mail: [customerhelp@gov.wales](mailto:customerhelp@gov.wales)

Website: [www.gov.wales](http://www.gov.wales)

## Welsh Women's Aid (WWA)

WWA are a national charity for Wales who work to end domestic abuse and all forms of violence against women. They are an umbrella organisation, representing local Women's Aid Groups situated across the country that can provide advice, plus direct services for women who are experiencing domestic abuse – for example, counselling, support groups or access to a refuge (or other safe accommodation).

Helpline: WWA manage the 24-hour **Live Fear Free Helpline** – see *the entry above for contact details*.

For more general queries, contact the main Welsh Women's Aid office:

Telephone: 02920 541 551

Website: [www.welshwomensaid.org.uk](http://www.welshwomensaid.org.uk)

# 9 Further information about Age Cymru

## 9.1 Who we are

**Age Cymru is the national charity for older people in Wales. We work to develop and deliver positive change with and for older people.**

Together with our local partners:

- we provide information and advice;
- we deliver wellbeing programmes;
- we provide independent advocacy;
- we support carers;

- we campaign and research.

## **Age Cymru**

Mariners House  
Trident Court  
East Moors Road  
Cardiff  
CF24 5TD

029 2043 1555

[www.agecymru.org.uk](http://www.agecymru.org.uk)

Registered Charity 1128436

## 9.2 **How we can help**

### **Age Cymru Advice: our information and advice service for matters affecting people over 50 in Wales**

Age Cymru Advice is committed to being the foremost information and advice service to older people in Wales. We aim to provide effective, accessible, high-quality information and advice while offering a free, impartial and confidential service. Age Cymru Advice can assist older people themselves, their family, friends, carers, or professionals. All of our guides and factsheets are available to download from our website, or you can contact our advice line to have copies posted to you for free.

### **Local support**

Age Cymru Advice also acts as a gateway to our local services. Face to face support via local offices and home visits may be available to people requiring additional or more specialised support.

### **Getting in touch**

If you want to talk to one of our expert advisers, in Welsh or English, call us on **0300 303 44 98**. Our advice line is open between 9am and 4pm, Monday – Friday.



(Calls are charged at the same rate as a call to a standard 01 or 02 number. They will also be automatically included in any landline or mobile inclusive minutes package).

You can also:

- email us at [advice@agecymru.org.uk](mailto:advice@agecymru.org.uk); *or*
- visit our website at [www.agecymru.org.uk/advice](http://www.agecymru.org.uk/advice)



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providing a consistent approach to quality information  
and advice for the people of Wales



[www.facebook.com/agecymru](http://www.facebook.com/agecymru)



[www.twitter.com/agecymru](http://www.twitter.com/agecymru)

### Sign up to our newsletter

Our quarterly newsletter contains details of our campaigns, services and how you can support our work. Sign up today by visiting:

[www.agecymru.org.uk/agematters](http://www.agecymru.org.uk/agematters)

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## 9.3 How you can help

All the information and advice we provide is free and completely impartial. In many cases our timely intervention can be life changing. We are an ageing population and more people than ever are coming to us for support. You can help us be there for those that need us most.

### Make a donation

No matter how small or large, donations make a massive difference and help us continue our important work.

Call: **029 2043 1555**

Visit: [www.agecymru.org.uk/donate](http://www.agecymru.org.uk/donate)

Every donation we receive helps us be there for someone when they need us.

- £10 helps towards a fully trained expert advice worker to respond to queries from people who need the support of our information and advice service.
- £20 helps towards the cost of us producing free information guides and factsheets that provide useful advice on issues affecting people over 50.

### Fundraise

Whether it is having a bake sale, running a marathon or knitting small hats for the Big Knit, there are so many ways to raise vital funds to support our work.

Call: **029 2043 1555**

Visit: **[www.agecymru.org.uk/getinvolved](http://www.agecymru.org.uk/getinvolved)**

### Volunteer with us

All volunteer roles at Age Cymru support us to improve lives. However you'd like to get involved, we'd love to hear from you.

Call: **029 2043 1555**

Visit: **[www.agecymru.org.uk/volunteer](http://www.agecymru.org.uk/volunteer)**

### Leave us a gift in your will

With a gift to Age Cymru in your will, you can do so much to make sure older people have the support they deserve in the years to come. Leave a world less lonely.

Call: **029 2043 1555**

Visit: **[www.agecymru.org.uk/legacy](http://www.agecymru.org.uk/legacy)**

