



Intentionally homeless families with children

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Author: Wendy Wilson
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Local authorities have a duty to secure accommodation for homeless people and households (under Part 7 of the *1996 Housing Act*, as amended) who are deemed to be unintentionally homeless and in a priority need category. When a local authority decides that a household is 'intentionally homeless' (i.e. has made itself homeless) no long-term duty to secure accommodation arises. This note considers what local authorities' duties are when a household containing dependent children is deemed to be intentionally homeless.

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1 Defining intentional homelessness

For a homeless applicant to be deemed 'intentionally homeless' the authority must be satisfied that:

- i) he or she has ceased to occupy accommodation (or there is a likelihood of him or her being forced to leave accommodation) as a consequence of a deliberate action or inaction by him or her,
- ii) the accommodation is available for his or her occupation, and
- iii) it would have been reasonable for him or her to continue to occupy the accommodation.¹

A deliberate act might be a decision to leave their previous accommodation even though it would have been reasonable for them to stay there. A deliberate omission might be non-payment of rent that led to rent arrears and eviction.

Under section 190(2) of the *1996 Housing Act* (as amended) households who are deemed to be intentionally homeless must be secured accommodation for such period as the housing authority consider will give them a reasonable opportunity to secure accommodation for themselves, as well as advice and assistance with efforts to secure accommodation for themselves. On occasion this period may be as short as 28 days.

2 Duties to intentionally homeless families with children

As noted above, intentionally homeless families with children are not owed a main homelessness duty (i.e. an offer of permanent accommodation); they are entitled to advice and assistance and temporary accommodation for a short period only.

During the passage of the *2002 Homelessness Act* through Parliament it was acknowledged that families with young children who are deemed to have made themselves homeless might be left without accommodation and any prospect of further assistance from the housing authority.

2.1 The Homelessness Act 2002: amendments & guidance

Section 12 of the *Homelessness Act 2002*² inserted a new section (213A) in the 1996 Act which applies where the housing department of a local authority is dealing with a homelessness application from a person whose household includes a child under 18 years of age, and there is reason to believe that the applicant may either be intentionally homeless (or threatened with homelessness) or not eligible for assistance under Part 7 of the *1996 Housing Act*.

Section 213A(2) requires housing authorities to have arrangements in place to ensure that all such applicants are invited to agree to the housing department notifying the social services authority of the essential facts of their case. The arrangements must provide that, where consent is given, the social services authority is made aware of the essential facts and, in due course, made aware of the subsequent decision on the homelessness case. Section 213A(3) requires the housing department of unitary authorities to have similar arrangements in place for notifying the social services department within the authority concerned.

¹ Sections 191(1) and 196(1) of the 1996 Act

² The main provisions of which came into force on 31 July 2002.

The [Homelessness Code of Guidance for Local Authorities](#) notes that information can be disclosed by the housing authority even where the applicant's consent is withheld:

The requirement to obtain the applicant's consent to the referral of the essential facts of his or her case under section 213A(2) or (3) does not affect any other power for the housing authority to disclose information about a homelessness case to the social services authority or department. For example, even where consent is withheld, the housing authority should disclose information about a homelessness case to the social services authority, if they have reason to believe that a child is, or may be, at risk of significant harm, as laid out in Chapter 5 of *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children* (2006). *Working Together* was recently revised to reflect developments in legislation, policy and practice. It was published in April 2006 and can be found on the *Every Child Matters* website at

<http://www.everychildmatters.gov.uk/socialcare/safeguarding/workingtogether/>.³

The [Code of Guidance](#) explains what action should be taken by an authority when faced with a family in these circumstances:

Where a family with one or more children has been found ineligible for assistance under Part 7 or homeless, or threatened with homelessness, intentionally and approaches the social services authority, that authority will need to decide whether the child is a 'child in need' under the terms of the *Children Act 1989*, by carrying out an assessment of their needs in accordance with the *Framework for the Assessment of Children in Need and their Families* (2000), Department of Health. The findings of the assessment should provide the basis for the decision as to whether the child is a 'child in need' and what, if any, services should be offered to the child in order to safeguard and promote his/her welfare. Section 17 of the *Children Act 1989* requires a local authority to promote the upbringing of children within their family, in so far as this is consistent with their general duty to safeguard and promote their welfare. The social services authority might wish to consider, for example, whether the best way of meeting the child's needs would be by assisting the family to obtain accommodation, for example by providing temporary accommodation or a rent deposit, as part of the exercise of its duty set out in s.17 of the *Children Act 1989*. *Local Authority Circular 2003(13): Guidance on accommodating children in need and their families* provides further guidance to social services authorities on the effect of s.17.

Where a social services authority has been made aware of a family found to be ineligible for assistance or homeless, or threatened with homelessness, intentionally by the housing authority, and they consider the needs of a child or children could best be met by helping the family to obtain accommodation, they can request the housing authority to provide them with such advice and assistance as is reasonable in the circumstances. Under s.213A(5), the housing authority must comply with such a request. Advice and assistance as is reasonable in the circumstances might include, for example, help with locating suitable accommodation and making an inspection of the property to ensure that it meets adequate standards of fitness and safety. However, the housing authority is not under a duty to provide accommodation for the family in these circumstances.

Section 213A(6) requires unitary authorities to have similar arrangements in place so that the housing department provide the social services department with such advice and assistance as they may reasonably request.⁴

³ para 13.7

2.2 Implementation of section 213A

The amendments introduced by the 2002 Act came into force on 31 July 2002. Despite the new provisions there is evidence to suggest that certain vulnerable families with children are not receiving the assistance envisaged. Sally Keeble raised the issue of intentionally homeless families with children who are denied assistance by local authorities in an adjournment debate in February 2004. She acknowledged the need for authorities to be able to refuse to house certain people:

If, in practice, they cannot refuse to house people who have children, however big the arrears or however bad the behaviour, council housing becomes completely unmanageable.⁵

But she went on to draw a distinction between evicting 'rogue' tenants and sending destitute families 'who are themselves victims.'⁶ Sally Keeble called for clear protocols on inter-agency working on such cases.

Extracts from the Minister's response to this debate are reproduced below:

When applicants who fall within a priority-need category—for example, families with children—are found to be intentionally homeless, the authority must provide them with short-term accommodation, for long enough to give them a reasonable opportunity to find accommodation themselves. Accommodation secured for as little as 28 days may be sufficient in some cases, but authorities must consider the particular circumstances of each case and make an objective judgment based on the facts. They must ask themselves this: given the overall circumstances, how long is it likely to be before the applicant can reasonably be expected to arrange accommodation for himself, or herself?

Housing authorities must also provide advice and assistance. That is another duty that we strengthened recently in the Homelessness Act 2002. Handing applicants a simple list of possible vacancies is not enough; authorities must assess families' housing needs and provide details of the location of accommodation that is appropriate to those needs.

There is, of course, always the risk that some authorities will do only the minimum. I must make it clear that when it comes to families with children, that is not good enough, if it means that they are left without a home and without any assistance. Authorities must ensure that their advice and assistance are robust, so that families have a real chance of securing accommodation.

In most cases the principal option will be helping a family to obtain accommodation in the private rented sector. Assistance with rent deposits, rent guarantees, rent in advance and, where appropriate, completion of housing benefit claim forms will help to achieve that. On some occasions the housing authority's advice and assistance may not result in the family securing accommodation. It should be remembered that success will depend to a large extent on the family being proactive, and actively taking up the various available options.

⁴ paras 13.8-10

⁵ HC Deb 6 February 2004 c1094

⁶ *ibid*

In some cases, families may still be homeless at the point when housing authorities' duty to provide short-term accommodation ends—that is, after the period that gave them a reasonable opportunity to find accommodation for themselves. At that point, families may seek further assistance from social services departments under the Children Act 1989. My hon. Friend commented on that.

...Nevertheless, the Government are clear about the fact that no family with children should be left without any assistance. That is why the Homelessness Act 2002 places a new requirement on housing authorities to alert social services when they have reason to believe that they are dealing with a family with children who have been, or are likely to be, found to be intentionally homeless or ineligible for assistance. It is important for social services to be alerted quickly, given the possibility that families with children could face homelessness once the housing authority had fully discharged its obligations to them.

The responsibilities of social services departments in relation to families with children who are homeless and not entitled to further assistance from housing authorities are not matters for which I have direct responsibility; they fall within the ambit of my colleagues at the Department for Education and Skills, who will no doubt read the report of this debate very carefully.

...As I have said, this is a difficult policy area, and the Government consider that people should take responsibility for their own housing needs wherever possible. They must certainly take responsibility for their own behaviour and their children's behaviour. The homelessness legislation ensures that all homeless people must be given some assistance, and it provides a strong safety net for families with children, and for vulnerable people who become homeless through no fault of their own. But people who bring homelessness on themselves cannot expect the same degree of help as those who become homeless through no fault of their own.⁷

A study by Shelter on the implementation of the 2002 Act, *Local Authority Progress and Practice*, was published in February 2003. The findings were based on two surveys of 28 local authorities conducted in August and September 2002. A majority of the 28 authorities (21) identified a need for improved joint working arrangements with social service departments in order to meet the demands of the 2002 Act. Authorities suggested necessary changes, including:

- formalising working arrangements;
- improving mutual understanding of each agency's work;
- improving communication;
- improving engagement with the relevant social services' staff;
- improving social services' understanding of their role in supporting homeless people;
- improving the way social services plan and prioritise.

These findings on the need to improve collaboration between social services, health authorities and housing departments were reinforced in further research by Shelter published in March 2004. In *Healthy Relationships* Shelter notes that despite the duties laid down in the

⁷ HC Deb 6 February 2004 cc1095-98

2002 Act joint working between statutory departments is 'still fragmented.' Good practice was found not to be consistently developed in all authorities: 'poor relationships between statutory agencies are resulting in variable services and leaving vulnerable people at risk of homelessness in future.'

A report published by the Audit Commission in January 2003⁸ which was based on inspections of local authority homelessness and housing advice services also found that there was room for improvement on joint working between housing and social services departments:

Social services have particular responsibilities to assist children in need under the *Children Act 1989*, and to assist people with mental health problems under the *NHS and Community Care Act 1990*. Sometimes, however, qualifying for assistance may require a higher level of need under social services legislation than housing legislation and people can fall through the gap between services. Links need to be made to ensure that services are co-ordinated.⁹

The ODPM: Housing, Planning, Local Government and the Regions Committee carried out an inquiry into homelessness in the 2004/05 session of Parliament. The Committee took evidence from Shelter which said that the response of social services to intentionally homeless families was 'patchy':

Social services sometimes offer no assistance at all, regularly fail to carry out children in need assessments and frequently limit their response to 'offering' to take the children into care. This forces many families into inappropriate and unsuitable housing situations. One recent caller to our shelterline service had been sleeping rough in a local park with her three children rather than have them taken into care.¹⁰

The Committee identified that there is a policy 'tension' in this area between the desire to keep families together and the desire to make people aware of the consequences of their actions. The Committee concluded:

68. This is a very sensitive area of policy where the welfare of children is at stake. Guidance must be clear and explicit on the roles and responsibilities of the various departments and confusion must be eliminated. The aim should be to avoid families being split up as a consequence of homelessness through a mix of better prevention services and support packages and the use of other means of intervention such as anti-social behaviour orders where appropriate. We accept that the success of such measures depends on the cooperation of the families involved. The Government has already produced guidance on joint working and the Department of Health circulated further information in 2003, but this appears to have had little effect. **The Government should produce explicit guidance for social services of the action that should be taken following referrals of intentionally homeless families with children, and draw attention to good practice.**

The Government's response to the Committee's recommendations was published in March 2005. The specific response to this point is reproduced below:

The Government agrees that families with children should not be split up purely as a consequence of homelessness. The current Homelessness Code of Guidance refers to the need for social services authorities to assess the needs of the child(ren) in the case

⁸ [Homelessness – Responding to the new agenda](#), January 2003

⁹ *ibid*, para 52

¹⁰ Third Report of Session 2004-05, HC 61-I, January 2005, para 64

of families with children who are found to be intentionally homeless and therefore not owed a housing duty by the local housing authority. The Government will be issuing a revised Homelessness Code of Guidance later this year and this aspect of the guidance will be reviewed. The guidance will be further reinforced by new statutory guidance on the Duty to Cooperate and guidance linked to the statutory requirement for Children's Services authorities to develop Children and Young People's Plans by 2008, to support the Children Act 2004. The Director of Children's Services will be responsible for ensuring that local children's services meet the needs of children and young people while the Integrated Inspection Framework will ensure that children's services are meeting the required standards.¹¹

The revised Homelessness Code of Guidance for Local Authorities was published in July 2006. Chapter 13 provides guidance on the cooperation required with social service departments when dealing with certain cases involving children.

¹¹ Cm 6490, para 12