

North East Local Housing Authorities Procedure

Homelessness Reduction Act 2017: The Duty to Refer

October 2018



North Tyneside Council



South Tyneside Council



South Tyneside Council's Housing Company



Audience	Local Housing Authorities; prisons; youth offender institutions; secure training centres; secure colleges; youth offending teams; probation services (including community rehabilitation companies); Jobcentre Plus; social service authorities; emergency departments; urgent treatment centres; hospitals in their function of providing inpatient care; members of the regular forces; other public authorities or partner organisations that wish to make referrals to North East local housing authorities
Overview	The Homelessness Reduction Act 2017 and Homelessness (Review Procedure etc.) Regulations 2018 have introduced a duty on specified public authorities to refer service users that may be homeless or threatened with homelessness to a local housing authority. This document sets out the procedure for referring service users to one of the twelve housing authorities in the north east. The procedure is for the public authorities specified within the legislation and other organization's wishing to make referrals on a voluntary basis. The procedure and the documents associated with it will be reviewed in the light of experience and further improvements made where necessary.
Action required	For practitioners and stakeholders to be aware of their responsibilities under the Homelessness Reduction Act 2017 and Homelessness (Review Procedure etc.) Regulations 2018. In particular, the process and mechanism for making referrals to a local housing authority within the north east
Additional copies and access	<p>This document is available to view and/ or download from the external website of each local housing authority within the north east:</p> <p>It may also be accessible from a referring organisation's internal intranet or through contacting their homelessness champion (if they have one). If a referrer would like a large print version, a translation of, or any other information about this document, please use the relevant local authority.</p>

1. What is the duty to refer?

The Homelessness Reduction Act introduced a legal duty requiring specified public authorities to refer service users that may be homeless or threatened with homelessness within 56 days to a Local Housing Authorities (LHA) in England. The majority of the provisions from the HRA came into force on 3rd April 2018 but this new duty on public authorities is in force from 1st October 2018.

1.2 Who is this procedure for?

The following public authorities are specified within the [regulations](#) and are subject to the legal duty:

- Prisons (public and private)
- Youth offender institutions
- Secure training centres
- Secure colleges
- Youth offending teams
- Probation services (including community rehabilitation companies)
- Jobcentre Plus
- Accident and Emergency departments
- Social service authorities
- Urgent treatment centres (including community and primary urgent centres, minor injury units and walk in centres)
- Hospitals in their function of providing in-patient treatment
- Regular forces (Royal Navy, the Royal Marines, the regular army and the Royal Air Force)
- North east authorities are also willing to accept referrals from other agency willing to participate but not listed by the regulations.

1.3 What the regulations say

In terms of the minimum legal requirements, the regulations state:

- Public authorities set out in the schedule will have a duty to refer people in England they consider may be homeless or threatened with becoming homeless within 56 days to local housing authorities (LHAs)
- Public authorities are required to ask the customer, and need consent for the referral and the sharing of their contact details
- The individual should identify which LHA they would like to be referred to (in England)
- A referral should include, at a minimum, the individual's contact details, consent, and agreed reason for the referral (i.e. homeless or threatened with homelessness)
- The referral in itself does not constitute an application for assistance under Part 7 of the Housing Act 1996

1.4 What the code says

The statutory code of guidance is intended to help housing authorities and other public authorities implement the law in practice, and offers the following guidance on the duty to refer:

- The duty should be incorporated into wider joint working arrangements and the local homelessness strategy
- Local referral procedures should focus on identifying people at risk as early as possible
- Housing authorities are responsible for setting up local procedures for managing referrals. They should be tailored to each public authority (who have ultimate responsibility for discharging their duty)
- It is recommended housing authorities set up a single point of contact for submitting referrals
- Housing authorities should include information about how they will respond to referrals
- Referring authorities should be mindful that for certain individuals, it may be more appropriate to assist them to approach a housing authority directly rather than a referral
- Local areas should consider issues of multiple and repeat referrals and agree protocols with service partners to mitigate these
- Authorities are encouraged to establish arrangements with partners that go beyond referral procedures, aiming to maximize the impact of shared efforts on positive outcomes for service users who may have multiple needs. Such arrangements can advance the objectives of partner agencies and deliver efficiencies for the public purse

1.5 What does the duty seek to achieve?

There are varied and sometimes complex reasons behind a person's homelessness and many people come into contact with a range of public services before reaching a homelessness crisis or approaching a LHA for advice. The duty to refer is intended to help people get access to homelessness services as soon as possible so their homelessness can be prevented or relieved in a timely manner.

2. Referrals

2.1 Who, When, How

Who: Referrals should be made when the public authority or organisation consider someone may be 'homeless' or 'threatened with homelessness'. The legal definitions of these terms are as follows:

- **“Homeless”** A person is homeless if they have no accommodation in the UK or elsewhere which is available for their occupation and which that person has a legal right to occupy. A person is also homeless if they have accommodation but cannot secure entry to it, or the accommodation is a moveable structure, vehicle or vessel designed or adapted for human habitation and there is nowhere it can lawfully be placed in order to provide accommodation. A person who has accommodation is to be treated as homeless where it would not be reasonable for them to continue to occupy that accommodation.
- **“Threatened with homelessness”** A person is 'threatened with homelessness' if they are likely to become homeless within 56 days. Under section 175(5), a person is also threatened with homelessness if a valid notice under section 21 of the Housing Act 1988 has been issued in respect of the only accommodation available for their occupation, and the notice will expire within 56 days.

The intention behind the legislation is not that other professionals become 'housing experts' and that training and guidance to support this procedure includes more information about identifying when someone may be homeless or at risk. Referrers are therefore advised that if they are in doubt on whether they should make a referral, in the first instance they should consult the accompanying training and guidance. If still in doubt, they should submit the referral and the housing authority can respond appropriately.

Please Note: This procedure and process does not replace or affect any safeguarding concerns and referrals. Please report safeguarding concerns in the usual way.

When: If an organisation considers that a customer may be homeless or threatened with homelessness or if the customer made a positive disclosure to a member of staff that they were homeless or at risk of homelessness the organisation would be required to ask the individual if they would like to be referred to a LHA. Although the legal definition is 56 days for someone 'threatened with homelessness' this procedure encourages identifying people at risk as early as possible to maximise the opportunities to prevent homelessness. Upon receiving a referral, the LHA will contact the individual and assess whether they meet the criteria to open an application. If contact with a person gives the housing authority reason to believe that s/he may be homeless or threatened with homelessness, this will trigger a homelessness application.

How: The basic legal requirements for a referral is:

- Referring agency details
- Applicant basic information
- Agreed reason for the referral
- Declaration and consent

There are a number of mandatory and non-mandatory questions when submitting a referral. Whilst it may be difficult to provide all the information requested, referrers are encouraged to complete as much information as possible. In particular, it is important to capture the applicant's preferred method of contact (or who should be contacted on their behalf). This will maximise the chance of the housing authority being able to contact and help them, with an initial understanding of their individual circumstances and needs.

Every Local Authority will have details of the Duty to Refer and a copy of the referral form available on each Local Authority website with a dedicated email address to send this to.

Please Note: Consent for a referral to be made is a legal requirement. In no circumstances can a referral be submitted without the applicant's consent. If the applicant is judged to not have the capacity to do so, referrers are reminded that a homeless application can only be made by a person who has the mental capacity to do so. It is currently uncertain whether a deputy can be authorised by the Court of Protection to make a homeless application on behalf of a person who lacks capacity. Referrers are therefore advised in these cases to Social Services as they may qualify for services (potentially including accommodation) under the Care Act 2014.

2.2 Response Time

A referral made by a public authority under its duty to refer does **not** constitute a homeless application. However, a local authority should always respond to a referral by contacting the individual. If it does not get a response, it should provide information on how the individual can access advice and assistance via a phone call, email or a letter. For this procedure, an emergency case is when an individual or family require immediate assistance within **3 working days** e.g. they are 'roofless' and have nowhere to stay. In these instances, please

use the existing emergency protocols for the relevant housing authority. In all other cases, referrals will be dealt with within a standard **5 working days**.

All Local Authorities should store information received from the referring authority to use in its assessment and personalised housing plans.

2.3 Referrals to other housing authorities in England

The regulations state the individual should identify which housing authority they would like to be referred to in England. The scope of this procedure is those that wish to be referred to a housing authority within the North East region. If they wish to be referred to another housing authority, referrers will need to follow the MHCLGs Code of Guidance, [Chapter 10](#). This states:

- When a housing authority makes inquiries to determine whether an applicant is eligible for assistance and owed a duty under Part 7, it may also make inquiries under [section 184\(2\)](#) to establish an applicant's local connection.
- [Section 199\(1\)](#) provides that a person has a local connection with the district of a housing authority if they have a connection with it because:
 1. (a) they are, or were in the past, normally resident there, and that residence was of their own choice; or,
 2. (b) they are employed there; or,
 3. (c) they have family associations living there; or,
 4. (d) of any special circumstances.
- For the purposes of (a), above, 'normal residence' is to be understood as meaning 'the place where at the relevant time the person in fact resides.' Residence in temporary accommodation provided by a housing authority can constitute normal residence of choice and can contribute towards a local connection.
- In the case of a person who is street homeless or insecurely accommodated ('sofa surfing') the housing authority will need to carry out a different type of inquiry to be satisfied as to their 'normal residence' than would be required for an applicant who has become homeless from more settled accommodation. If an applicant has no settled accommodation elsewhere, and from inquiries the authority is satisfied that they do in fact reside in the district, then there will be normal residence for the purposes of the 1996 Act.
- The Local Authorities Agreement suggests that a working definition of normal residence sufficient to establish a local connection should be residence for at least 6 months in an area during the previous 12 months, or for 3 years during the previous 5 year period.

2.4 Does a referral trigger a homelessness application?

No - applicants must still make an application in the usual way following a referral. However, we have agreed that local authorities will always respond to referrals by making contact with the individual.

2.5 Single points of contact

Each Local Authority has a single point of contact for public authority referrals.

Local Authority	Email	Emergency/Out of Hours Number
Durham CC	dutytorefer@durham.gov.uk	01388 722 538
Redcar & Cleveland BC	dutytorefer@redcar-cleveland.gov.uk	01642 771300
Thirteen Group/Middleborough	dutytorefer@thirteengroup.co.uk	01642 726 050
South Tyneside Council	dutytorefer@southtyneside.gov.uk	0191 4562093
Newcastle City Council	dutytorefer@newcastle.gov.uk	0191 278 7878 (ask for the emergency homeless service)
North Tyneside Council	dutytorefer@northtyneside.gov.uk	0191 200 6800.
Darlington BC	housing@darlington.gcsx.gov.uk	01642 524 552
Stockton-On-Tees BC	dutytorefer@stockton.gov.uk	01642 524 552
Northumberland CC	dutytorefer@northumberland.gov.uk	0345 600 6400
Sunderland City Council	dutytorefer@sunderland.gov.uk	0191 520 5551
Hartlepool BC	dutytorefer@hartlepool.gov.uk	01429 266 522
The Gateshead Housing Company/Gateshead Council	dutytorefer@gatesheadhousing.co.uk	0191 477 0844

2.6 Multiple referrals

When establishing local arrangements, housing authorities should consider the issues of multiple and repeat referrals and agree protocols with service partners to mitigate these.

There may be circumstances in which an individual's application has been closed by the housing authority and a new referral is received shortly after. The housing authority should respond to the referral and make contact with the individual to evaluate if there has been any change in relevant facts since the last application, which would warrant inquiries being made into any new application for assistance under Part 7.

2.7 Joint working arrangements

The Tyne & Wear Operational Group and Teesside Operational Group will meet quarterly to ensure effective joint working in each area. These groups consist of Local Authority representatives.

2.8 What happens if the duty to refer is not fulfilled?

There is no sanction specified in the Act however, breach of the duty could be subject to Judicial Review and a failure to comply with the duty could also be addressed through contractual means where a provider's contract requires a contract holder to comply with all their legal duties.