

Losing your Home

Dealing with eviction and homelessness



A free and confidential service paid for by legal aid
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community
legal advice

There are laws to help you if you have nowhere to live, whether it's because you're being unfairly evicted by your landlord, or you or your children are not safe where you live now.

This leaflet covers important questions you may have:

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The leaflets in this series give you an outline of your legal rights. They are not a complete guide to the law and are not intended to be a guide to how the law will apply to you or to any specific situation. The leaflets are regularly updated but the law may have changed since this was printed, so information in it may be incorrect or out of date.

If you have a problem, you will need to get more information or personal advice to work out the best way to solve it. See 'Further help' on page 10 for sources of information and advice.

The prospect of having nowhere to live is terrifying for anyone. But there are laws that are meant to protect you from being homeless, especially if you are a vulnerable person – for example, if you are young, pregnant or being threatened by someone.

If you are facing homelessness because your landlord wants you to leave your house or flat, there are laws to make sure they deal with you fairly. Landlords must follow the proper procedures before you have to leave. These procedures depend on the type of tenancy you have, but if your landlord tries to force you to leave without following the right procedures, they will be breaking the law. For more on this, see the Community Legal Advice leaflet 'Renting and Letting', which outlines rights for tenants and landlords.

It's important to act quickly if you are homeless or face being homeless. The sooner you get help, the more likely you will be to find somewhere suitable to live, or prevent a landlord forcing you to leave. As a first step before applying to your council as homeless, you can get on-the-spot help and advice by contacting certain organisations. (See 'Further help' on page 10 for details.)

You do not have to be sleeping on the streets to be homeless. You may be legally considered homeless, and entitled to get help to find somewhere to live (or to stay in your home), for many reasons. These include:

- you are too worried about your personal safety to stay at home, because of violence or the threat of violence (which could be from a neighbour or ex-partner, not just from someone you live with);
- you can't stay in your home because it is in very poor condition and a threat to your health;
- you have nowhere that you can live with your family;
- you have been locked out of your home and you are not allowed back;
- you live in a caravan or houseboat (or other moveable structure) but you have nowhere to keep it legally.

Will the council find me somewhere to live?

If you are homeless or likely to become homeless within 28 days, the local council may have to offer you somewhere else to stay or to live, temporarily or longer term. The council must offer you somewhere if all of the following apply to you:

- you are homeless through no fault of your own;
- you are in 'priority need'; and
- you are 'eligible for assistance'.

The offer of somewhere to live should also apply to someone who normally lives with you as a member of your family or might reasonably be expected to live with you.

If you are not in 'priority need' or 'eligible for assistance' the council does not have to provide you with any accommodation but should still be able to advise you on your options.

If the local council believes that you are homeless, eligible for assistance and in priority need, then it must make sure you have somewhere to live immediately while it makes enquiries and investigates your case. This could be bed-and-breakfast, hostel or hotel accommodation.

In England, if you or someone else in your household is pregnant or has responsibility for children, the council can house you in bed-and-breakfast accommodation in an emergency only, and then just for a maximum of six weeks. In Wales, the maximum time that any homeless applicant can spend in bed-and-breakfast accommodation will depend on the standard of the B&B and whether they are pregnant or have children.

The council must go on providing accommodation for you until it has finished investigating your case and has told you the decision. If a decision goes against you and you challenge it, the council can continue to house you while it looks again at your case, but it does not have to.

If the council offers you unsuitable accommodation, tell them why it is unsuitable (see 'What if the council offers me somewhere unsuitable?' on page 8). But don't reject it outright without getting advice first, because the council may refuse to find you an alternative.

Who is in priority need?

The rules that describe priority need in England are slightly different from those in Wales, but you are in priority need in either England or Wales if:

- you have dependent children living with you;
- you or someone you live with is pregnant;
- you are homeless because of an emergency such as a fire, flood or other disaster;
- you or someone you live with is vulnerable because of old age, physical disability or mental illness or for another special reason; or
- you are 16 or 17 years old.

In England you will also be in priority need if you are:

- considered vulnerable because you have been in the armed forces, prison, custody or detention in the past; or
- considered vulnerable because you cannot stay at home due to violence or harassment or threats of these. This might be because of your religion, sex or ethnic origin, or for another reason; or
- 18 to 20 years old and you were looked after, accommodated or fostered by social services at some time when you were 16 or 17; or
- 21 years old or over and you are considered vulnerable because you were looked after, accommodated or fostered by social services at any age.

If you fall into one of the last two groups, both social services and the housing department may be responsible for helping you.

In Wales you are also in priority need if:

- you are 18 to 20 years old and you used to be in care, or are at risk of financial or sexual exploitation;
- you can't stay at home, or you are at risk if you return home because of domestic violence or threats of domestic violence;
- you have been in the armed forces and have been homeless since you left; or
- you have been homeless since being in prison or custody, and you have a local connection with the area you apply to.

How does the council decide if I am vulnerable?

In deciding whether you are vulnerable, the council should consider your personal circumstances. It must decide whether you are less able to cope and are at greater risk of harm than anyone else who is homeless. You won't automatically be considered vulnerable just because, for example, you have health problems or you have spent a long time in the army.

You should get advice if you are not sure, or if you think that you might be able to get help for some other reason. Your doctor, or your social worker or support worker if you have one, should be able to help you with your case if you or someone you live with is vulnerable.

Am I eligible for assistance?

Most people are eligible for assistance, including, in most cases:

- British citizens who live in the UK;
- people from European Union (EU) countries working here, though the rules are different for people from countries that joined the EU since 2004; and
- people who have been granted refugee status or 'indefinite leave to remain'.

However, you will not normally be eligible for assistance if you are:

- an asylum seeker; or
- 'subject to immigration control'.

Also, if you have recently returned to the UK after living abroad, even if you are a British citizen, the council must check whether you are 'habitually resident'. If it decides you are not, you will not be eligible for assistance.

The law is complicated and you should get advice if you are not sure whether you are eligible for assistance. If you are an asylum seeker, you will not normally be able to get help from the housing department of the council. See the Community Legal Advice leaflet 'Claiming Asylum' for more information about your rights, and also for the names and phone numbers of organisations that can help you.

Does it matter how I became homeless?

The way you became homeless may affect how long the council has to help you for. You may be entitled to only short-term accommodation if the council decides that you are 'intentionally homeless'. This may happen if:

- you chose to leave a home you could have stayed in;
- you didn't pay the rent when you could have afforded to;
- you made yourself homeless to take advantage of the system; or
- you were evicted because of anti-social behaviour by you or someone else in your household.

However, the council should not decide that you are intentionally homeless if:

- your home was less fit to live in than other properties in the area;
- you lost your home for failing to pay your rent or mortgage for reasons outside your control, for example because you lost your job or your benefit was not paid on time;
- you left your previous home because you genuinely did not know you had the right to stay there;
- you were evicted because someone in your household did something that you did not know about, or that you had no control over; or
- you (or someone else in your household) were the victim of violence at your home.

Even if the council says you are intentionally homeless, it must still house you for a time, if you are eligible for assistance and in priority need. The length of time will depend on your circumstances but may be only 28 days.

If the council says you are intentionally homeless, you need to get expert advice about what to do, as the law is very complicated.

What if the council says another council must find me somewhere to live?

Even if the council accepts that you are homeless and entitled to long-term accommodation, it might decide that another council should take responsibility for finding you somewhere to live. But it can only do this if you have no 'local connection' in its area, and you do have a local connection with another council area.

A local connection usually means you (or someone in your household) have:

- lived in the area for at least six months in the last year, or three years in the last five years; or
- a job in the area; or
- a close relative who has lived in the area for some time and you want or need to live near them.

You may also have a local connection for a special reason, for example if you have a serious health condition and are receiving specialist treatment that could not be given elsewhere.

If you have been granted refugee status and you were housed by the National Asylum Support Service (NASS) while your asylum application was being considered, you have a local connection with the council area where your last NASS home was.

The council you apply to for somewhere to live can send you to another council only if it follows a certain procedure, and the other council has agreed to help you.

If you do not want to be sent to another council, you should get advice.

The council cannot send you back to a place where you would be at risk of violence.

Even if you are not in priority need, as long as you meet the other conditions the council must still give you advice and help you to find somewhere else to live. You will also be able to apply for permanent housing.

What if the council offers me somewhere unsuitable?

If you think the temporary or permanent accommodation that the council offers you is unsuitable, you can ask for a review of the decision. Accommodation might be unsuitable if, for example:

- it is too far from your job or from a hospital or other service that you use regularly;
- it would place you at risk of violence;
- there are stairs that you cannot manage because of your health;

- it is too small for the number of people in your household; or
- the rent is so high that you cannot afford other basic necessities.

The council will usually make you only one offer of suitable accommodation, so you must think carefully and get advice before refusing to move in. Even after moving in you can still ask for a review as to whether it is suitable, within 21 days of the council's offer. This is often the best course of action if you think the house or flat is unsuitable, because, if the review doesn't agree with you, you will still have a roof over your head. An advice centre may be able to help you show the council that the accommodation isn't suitable (see 'Further help' on page 10 for details).

What can I do if I disagree with the council's decision?

If you disagree with a council decision (for example, on whether you are in priority need), you can ask the council to review its decision as long as you ask within 21 days of getting this decision in writing. There are a few types of council decision that you cannot ask to be reviewed in this way, but you may be able to challenge them in a different way. You will need expert advice from a housing aid centre, Citizens Advice Bureau or solicitor to do this.

If you disagree with the review decision, you have the right to appeal to the county court within 21 days of receiving the review decision, but only if you are challenging a point of law, not the decision itself. Again, you should get expert advice

Where can I go if I need somewhere to stay urgently?

If the council can't help you, you can get advice on finding an emergency or short-term place to stay, such as a hostel, women's refuge or bed-and-breakfast hotel, from housing advice organisations or a Citizens Advice Bureau (see 'Further help' on page 10 for details).

What if my landlord wants to evict me?

Landlords have to follow the proper legal procedure if they want you to leave – they can't just change the locks when you are out. This is true whether you rent from the council, a housing association, or a private landlord.

It is usually illegal for your landlord to evict you without giving you notice and getting a court order. However, in some cases your landlord may only have to give you 'reasonable notice' to leave (which could be just a few days or less) and does not need to go to court. These are if you:

- live in a hostel that is run by the council or a housing association;
- live in holiday accommodation;
- share living space with your landlord, or your landlord lives in the same house or flat and you share living space with a member of their family;
- live in accommodation provided to you as an asylum seeker;
- live in accommodation that you do not pay any rent for; or
- are in temporary accommodation provided by the council while you are waiting for a decision on your homelessness application.

Otherwise, your landlord will have to give you written notice that they are going to apply for a court order. The type of notice and the period of notice will depend on the type of tenancy you have. For more information, see the Community Legal Advice leaflet 'Renting and Letting'.

If you are facing eviction for any reason, you should get specialist help straight away. You may be able to stop the eviction, or delay it until you can sort matters out or find somewhere else to live. This is true even if the bailiffs are on the way. The rules are very complicated so you will need expert help immediately.

What can I do if my landlord is harassing me?

If you are being harassed, or if you are facing illegal eviction by a private landlord, contact the person at your local council who deals with harassment and illegal evictions (sometimes called the tenancy relations officer). Look in your phone book for contact details. They should try and deal with the harassment, and talk to your landlord about his or her legal obligations. They may also prosecute the landlord, though this is rare.

You can also take action through the courts yourself, though you'll need expert legal help to do this. You or your solicitor or adviser can apply for an injunction to stop your landlord harassing you or make them let you back into your home. If the landlord does not do this, they may be fined or sent to prison. You should also be able to claim compensation. If the case is urgent, you can apply for an emergency injunction (court order), which will usually last for up to a week, before there is a full court hearing.

See the Community Legal Advice leaflet 'Renting and Letting' for more information about your rights if your landlord wants you to leave, and about the legal procedures that must

be followed before you are evicted. In any case, you should get advice and help as soon as possible.

Further help

Community Legal Advice

Provides free information direct to the public on a range of common legal problems.

Call 0845 345 4 345

If you qualify for legal aid, get free advice from a specialist legal adviser about benefits and tax credits, debt, education, employment or housing. Also find a high quality local legal adviser or solicitor.

Click www.communitylegaladvice.org.uk

Find a high quality local legal adviser or solicitor, link to other online information and see if you qualify for legal aid using our calculator.

Shelter

Shelter has a free Housing Advice Helpline, which gives advice and information on housing matters in the whole of the UK (open from 8am to midnight, every day).

phone: 0808 800 4444

www.shelternet.org.uk

Shelter also has a network of local housing aid centres. Details of centres in England are on the Shelter website at www.shelter.org.uk.

In Wales, contact Shelter Cymru:

phone: 01792 469400 or 01978 317911

www.sheltercymru.org.uk

Child Poverty Action Group

phone: 020 7837 7979

www.cpag.org.uk

Freephone 24-hour National Domestic Violence Helpline run in partnership between Women's Aid and Refuge

phone: 0808 2000 247

www.womensaid.org.uk

www.refuge.org.uk

The Community Legal Service

The Community Legal Service has been set up to help you find the right legal information and advice to solve your problems.

You can get help through a national network of organisations including Citizens Advice Bureaux, Law Centres, many independent advice centres and thousands of high street solicitors. All of these services meet quality standards set by the Legal Services Commission. Look for the Community Legal Service logo, shown below.

Many of the organisations offer some or all of their services for free. If you cannot afford to pay for advice you may be eligible for financial support through the Community Legal Service Fund (Legal Aid). You can order leaflets about funding from the LSC leaflet line on 0845 3000 343. You can also use a Legal Aid eligibility calculator on the website: www.communitylegaladvice.org.uk

*Community
Legal Service*



The Legal Services Commission (LSC)

The Community Legal Service and the Community Legal Service Fund are managed by the Legal Services Commission. To find out more about us visit our website at www.legalservices.gov.uk or find the details for your local Legal Services Commission office in the phone book.

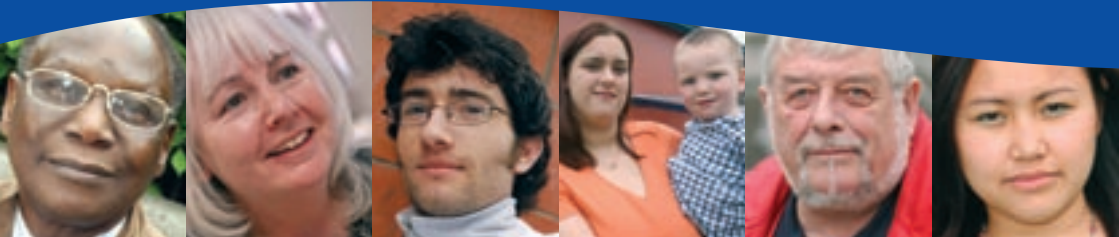
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The leaflets are also available online at: www.communitylegaladvice.org.uk

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Choosing a Legal Adviser
 - G2 A Step-by-Step Guide to Legal Aid

The leaflets are also available in Welsh, Braille and Audio.

To order any of these leaflets contact the LSC leaflet line on 0845 3000 343 or email LSCLeaflets@ecgroup.uk.com or fax 020 8867 3225.



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Shelter



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