

Losing your Home

Dealing with eviction and homelessness



*Community
Legal Service*



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.

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are regularly updated but the law may have changed since this was printed, so information in it may be incorrect or out of date.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 11 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 he or she deals with you fairly. Landlords must follow special 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 Service Direct 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 11 for details.)

It's important to realise that being homeless doesn't just mean living on the streets. 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 have somewhere to live but you are too worried about your personal safety to stay there, 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 have somewhere to live, but you can't stay because your home 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; or
- you live in a caravan or houseboat (or other moveable structure) but you have nowhere to park it legally.

Will the council find me somewhere to live?

If you are homeless or likely to become homeless within 28 days through no fault of your own, the local council may have to offer you somewhere else to stay or to live, temporarily or longer term. The offer of somewhere to live may also apply to someone who normally lives or might reasonably live with you as a member of your family, and will depend on your circumstances. The council must offer you somewhere if you are in 'priority need' and 'eligible for assistance'.

How does the council decide if I am in priority need?

The rules that describe priority need in England are different to those in Wales. However, you are in priority need in either England or Wales if:

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

In England you may also be considered vulnerable if:

- you or someone you live with has been in the armed forces, prison, custody or detention in the past; or
- you or someone you live with cannot stay at home because of violence or harassment or threats of these. This might be because of your religion, gender or ethnic origin, or for another reason.

In England you should also be found somewhere to live if you are:

- 16 or 17 years old;
- 18 to 20 years old and used to be in care; or
- over 21 years old and classed as vulnerable because you have been looked after or accommodated by your local authority, or you have been fostered or in care.

If you are in one of these positions, the situation is complicated. If you are considered to be in 'priority need', the local council's housing department must find you somewhere to live. If you are not considered in 'priority need', social services must find you somewhere to live. If the two departments cannot agree which of them is responsible for you, you should get advice, because one or other of them must find you somewhere to live.

In Wales you are also in priority need if:

- you are 16 or 17 years old;
- you are 18 to 20 years old and 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.

And in Wales, a 'special reason' could include:

- being under threat of violence, sexual or racial harassment or abuse;
- being a former asylum seeker; or
- having HIV or AIDS.

How does the council decide if I am vulnerable?

In deciding whether you are vulnerable, the council should consider whether your personal circumstances make it difficult for you to find and keep accommodation. 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'. However, you may not be eligible if you have come from abroad and:

- you don't normally live in the UK;
- you aren't entitled to claim benefit;
- you recently returned to the UK after living abroad for some time; or
- (in some cases) you are 'subject to immigration control'.

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 Service Direct leaflet 'Claiming Asylum', for more information about your rights, and also for the names and phone numbers of organisations that can help you.

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 may be bed-and-breakfast, hostel or hotel accommodation. 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 you have been offered unsuitable accommodation, tell the council why. But don't reject it outright without getting advice first, because the council may refuse to find you an alternative.

Does it matter how I became homeless?

The way you became homeless will affect how long the council has to help you for. You may be entitled to only very short-term accommodation if the council decides that you are eligible for assistance, in priority need and '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;
- the council offered you a suitable place to live, but you didn't accept it;
- you made yourself homeless to take advantage of the system; or
- you were evicted because of deliberate actions or behaviour by you or someone else in your household.

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

- your home was unfit to live in;
- you lost your home because you couldn't pay your rent or mortgage after losing your job or not getting your benefit paid on time;

- you left your previous home because you did not know you had the right to stay there; or
- you were evicted because of something someone in your household did that you did not know about, or that you had no control over.
- a close relative who has lived in the area for some time and you want or need to live near them; or
- another reason – for example, you need to be near your child’s school.

Even if the council says you are intentionally homeless, it still has to house you for a short time as long as you are eligible for assistance and in priority need. But this will only be long enough for you to find somewhere else to live (usually 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 is a 'local connection'?

The council will also check whether you have a 'local connection' with the area before agreeing to help you. You will have a local connection if 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;
- a job in the area;

If you have no local connection, you still have the right to apply as a homeless person. The council may decide that another council should take responsibility for housing you. But you cannot be sent there until the proper procedures have been followed, and the other council has agreed to help you. If you do not agree with the decision, you should get advice.

The council cannot send you back to somewhere where you would be at risk of domestic 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, depending on how urgent your need is.

What if the council offers me somewhere unsuitable?

If you meet all the conditions listed in the other sections, the council must give you accommodation straight away. This will be temporary accommodation, and the council will continue to provide it (as long as you pay the rent and keep to the terms of the tenancy agreement) until it can find you somewhere permanent to live.

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;
- there are stairs which you cannot manage because of your health; or
- it is too far from a hospital or other service which you use regularly.

The council will usually make you only one offer of suitable accommodation, so you should think carefully and get advice before refusing to move in. Even after moving in to the accommodation, within 21 days of the council's offer you can still ask for a review as to whether it is suitable. An advice centre may be able to help you show the council that the accommodation isn't suitable (see 'Further help' on page 11 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 intentionally homeless), you can ask the council to review its decision as long as you ask within 21 days of getting this decision in writing. You will need expert advice from a housing aid centre, Citizens Advice Bureau or solicitor to do this. If you disagree with the review, you can appeal to the county court within 21 days.

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 from a Citizens Advice Bureau (see 'Further help' on page 11 for details).

What if my landlord wants to evict me?

In most cases landlords have to follow a special 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 a court order. However, in some cases, you have fewer rights. Your landlord may only have to give you 'reasonable notice' to leave (which could be just a few days or less) if:

- you live in a hostel or holiday accommodation;
- your landlord provides services such as cleaning your room or providing meals; or

- you 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 his or her family.

In most other cases your landlord has to get a court order (called a 'possession order') before you have to leave. Landlords normally have to give you written notice that they are going to apply to the court but if they want you to leave because of your anti-social behaviour, they can start proceedings straightaway.

The steps that landlords must follow, the amount of notice you are entitled to, and the reasons they can use to evict you depend on the type of tenancy you have. For more information, see the Community Legal Service Direct 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 should get 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, but only in extreme cases – for example, if the landlord is violent, or is known to have harassed tenants in the past.

You can also take action through the courts yourself, though you'll need expert legal help to do this. You or your adviser can apply for an injunction to stop your landlord harassing you and let you back into your home. If the landlord does not do this, he or she 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) that will usually last for up to a week, before there is a fuller court hearing.

See the Community Legal Service Direct 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 Service Direct

A free, easy-to-use service to help you solve your legal problems.

Call: 0845 345 4 345

to speak to a qualified legal adviser about Welfare Benefits, Debt or Education or find local advice services for other problems.

Log on at: www.clsdirect.org.uk to search for a quality local legal adviser or solicitor or find links to other sources of online information and help.

Shelter

Shelterline: 0808 800 4444

Advice and information line covering the whole of the UK.

www.shelter.org.uk

Shelter also has a network of local Housing Aid Centres across England and works closely with partners in Wales (Shelter Cymru).

In England phone: 020 7505 4699

In Wales phone Shelter Cymru:

01792 469 400

www.sheltercymru.org.uk

Child Poverty Action Group

phone: 020 7837 7979

www.cpag.org.uk

Office of the Deputy Prime Minister (ODPM)

For a list of free information leaflets about housing rights,

phone: 0870 1226 236

www.housing.odpm.gov.uk

Women's Aid national domestic violence helpline

phone: 0808 2000247

www.womensaid.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 CLS Direct website at www.clsdirect.org.uk

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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.

legal services

COMMISSION

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

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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 LSCleafletline@stivesdirect.com or Fax 01732 860 270



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Shelter



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